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WORKS

OF

DANIEL WEBSTER.

VOLUME IV.

BOSTON:
CHARLES C. LITTLE AND JAMES BROWN.
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DEDICATION

OF THE FOURTH VOLUME.

TO

FLETCHER WEBSTER, Esq.

My dear Son:

I dedicate one volume of these Speeches to the memory of your deceased brother and sister, and I am devoutly thankful that I am able to inscribe another to you, my only surviving child, and the object of my affections and hopes. You have been of an age, at the appearance of most of these speeches and writings, at which you were able to read and understand them; and in the preparation of some of them you have taken no unimportant part. Among the diplomatic papers, there are several written by yourself, wholly or mainly, at the time when official and confidential connections subsisted between us in the Department of State.

The principles and opinions expressed in these productions are such as I believe to be essential to the preservation of the Union, the maintenance of the Constitution, and the advancement of the country to still higher stages of prosperity and renown. These objects have constituted my Pole Star during the whole of my political life, which has now extended through more than half the period of the existence of the government. And I know, my dear son, that neither parental authority nor parental example is necessary to induce you, in whatever capacity, public or private, you may be called to act, to devote yourself to the accomplishment of the same ends.

Your affectionate Father,

DANIEL WEBSTER.

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THE REMOVAL OF THE DEPOSITS.*

On Friday, March 7, in presenting a memorial from the building mechanics of the city and county of Philadelphia, Mr. Webster addressed the Senate as follows: —

I rise, Sir, to perform a pleasing duty. It is to lay before the Senate the proceedings of a meeting of the building mechanics of the city and county of Philadelphia, convened for the purpose of expressing their opinions on the present state of the country, on the 24th of February. This meeting consisted of *three thousand persons*, and was composed of carpenters, masons, brickmakers, bricklayers, painters and glaziers, lime-burners, plasterers, lumber-merchants, and others, whose occupations are connected with the building of houses. I am proud, Sir, that so respectable, so important, and so substantial a class of mechanics have intrusted me with the presentment of their opinions and feelings, respecting the present distress of the country, to the Senate. I am happy if they have seen, in the course pursued by me here, a policy favorable to the protection of their interest, and the prosperity of their families. These intelligent and sensible men, these highly useful citizens, have witnessed the effect of the late measures of government upon their own concerns; and the resolutions which I have now to present fully express their convictions on the subject. They propose not to reason, but to testify; they speak what they do know.

Mr. President, the members of this meeting have not transmitted their proceedings by mail; nor have they rested satisfied

* A Continuation of the Remarks commenced on page 506 of the third volume, on the Removal of the Deposits of the Public Money, and on the Subject of a National Bank, delivered in the Senate of the United States on several occasions in the course of the Session of 1833 – 34.

with merely causing them, in any way, to reach the two houses of Congress, and to be read and disposed of in the ordinary manner. They have forwarded them by a committee of *thirty persons* of their own body, and those thirty persons are now within the walls of the Senate-chamber. I wish, Sir, that Senators would converse with these gentlemen; I wish they would embrace the opportunity of satisfying themselves of their intelligence, their fairness, their freedom from the influence of all oblique or improper motives, and the unquestionable truth of the existence of that distress which they come here to represent. Such a communication would convince honorable members that there is no pretence, no fiction, no exaggeration, in the whole matter; but that all their words are words of truth and soberness.

Mr. President, Congress has now been a good while in session. When we left our respective homes, the pressure had not come on; and we left our friends and neighbors prosperous and happy. We have been here three months, without intercourse with our constituents and our neighbors. In the mean time, the whole condition of things is changed, fearfully changed; and I verily believe we do not fully know or feel the full extent of this change, and all the difficulty and distress which now pervade the people. If we were at home; if we were each in our own respective circles, amidst the men of business, and mingling with all classes; and if we were hearing, as in that case we should hear, every hour, of more and more trouble, of new individual disasters, and of still increasing fear and alarm; and if we could witness, as we then should witness, the despondency of those heads of families whose occupations and means of living have been thus suddenly cut off, we should be convinced that it is the imperative and solemn duty of Congress to relieve the country without a moment's delay. Sir, if half the time and the study which are now devoted to the finding out of plausible arguments to justify the Secretary of the Treasury were given to an honest and thorough inquiry into the real state of the country, I fully believe all would see the absolute necessity of immediate redress.

Sir, while we sit here, in long debates, the country is plunging deeper and deeper in distress. We must not turn away from this. Sir, let us keep our eyes earnestly on the country; for, be assured, the eyes of the country are kept earnestly on us.

And let us, Sir, take this occasion to look into facts, and examine particulars. Let us see whether there be any thing, and if so what it is, of which these our fellow-citizens complain. Do they only join in a general cry raised by others? Do they deal in unmeaning generalities, and set up an undefined and invisible cause of distress? Sir, listen to the statement; hear the facts. The committee state, that *eight thousand* persons are ordinarily employed in building houses in the city and county of Philadelphia, a number which, with their families, would make quite a considerable town. They further state, that the average number of houses which this body of mechanics has built, for the last five years, is twelve hundred a year. The average cost of these houses is computed at two thousand dollars each. Here is a business, then, Sir, of two million four hundred thousand dollars a year. Such has been the average of the last five years. And what is it now? Sir, the committee state that the business has fallen off seventy-five per cent. at least; that is to say, that, at most, only one quarter part of their usual employment now remains. This is the season of the year in which building contracts are made. It is now known what is to be the business of the year. Many of these persons, who have heretofore had, every year, contracts for several houses on hand, have this year no contract at all. They have been obliged to dismiss their hands, to turn them over to any scraps of employment they could find, or to leave them in idleness for want of any employment. But, Sir, let us look into the particulars of this case still a little further. It is well for us to dwell on them. As we have facts before us, useful for us to know, let us not hasten away from them.

Sir, how has this building business usually been carried on? Has it been by employing these mechanics as mere day-laborers? No, Sir; that, probably, would be generally the case in other countries; but in this, hitherto, and especially of late years, something better has been done by the building mechanics. Many of our young beginners, say the committee, buy a lot, partly for cash, but perhaps mostly on credit. They go to work and build a house upon it, those who furnish bricks and lumber having a lien on the land for their security. They thus unite capital, or its substitute, credit, with their labor; and by prudent management, in prosperous times, they are able to sell

their houses, when thus built and completed, at prices handsomely remunerating them. They are thus proprietors and owners, as well as laborers; and this practical ownership of property, this substantial interest in the community, is one of the causes which give independence and respectability to the mechanics in the cities of the United States, far beyond the general experience of other countries. But see, Sir, how the Secretary's "experiment" has affected the interest of these persons. On the one hand, they can now obtain no new credits, they can commence no new operations on their own account, and other and richer persons will not build houses in the present state of things; so that these mechanics are out of employment; and, on the other hand, nobody buys, at fair and usual prices, the houses which they have already built; but they are obliged to sell them to capitalists, or others, at great loss. At the same time, therefore, that they are deprived of employment for the present, and the hope of it for the future, they are subjected, also, to great sacrifices in the earnings of former years.

These, Sir, are plain matters of fact; and they are manifestly the results of the measures of government. Have not these mechanics, then, a right to complain? Ought they to hold their tongues, and starve, in order to enable the Secretary to try his experiment? Are they to be the willing victims of such fantastical and arrogant schemes? No, Sir; that is not their notion of patriotism and duty. They think the government was established for them, and for the rest of the people of the United States, for their protection, security, and happiness. They think it not a subject for the practice of every raw conceit, every presumptuous theory, every impulse of arrogant and self-sufficient love of change. Sir, they are not the dupes of the Secretary's experiment; and, if they can help it, they do not intend to be its victims. They know full well in what purpose these measures originated, which have since obtained the name of the "experiment." They think they have a right to demand of Congress not to sanction such purposes to their ruin. As American citizens, they demand the shelter of the laws; as tax-payers to government, they demand the protection of government; as industrious citizens, they demand security for their industry; and they protest, solemnly protest — in their name, Sir, in their behalf, in their presence, I now enter their protest — against these

unnecessary and wanton measures, which destroy their property, break up their employments, and reduce them and their children to want and beggary.

Mr. President, the Senate will perceive that, in one of the resolutions, this meeting of mechanics expressed their hope that the Governor of Pennsylvania would adhere to his former opinions, and lend his countenance and support to the restoration of the currency, by rechartering the bank. In this hope they have been disappointed. They feel it to be a great misfortune, certainly, that they do not come here sustained by the government of the State at home. No doubt, Sir, it is a great misfortune; at least, I agree with them in thinking it such. They most assuredly had expected a different result of the Governor's deliberations. In addition to their intense individual interest in this great question, they feel an interest, also, in the public works of the State, which have come, or may come, to a stop, in consequence of the pressure of the times; although it is true, perhaps, that they have not so direct an interest as their fellow-citizens of Lancaster County, whose memorial has just been presented, since the great western railway is to penetrate that important county from end to end. I refer to the proceedings of Governor Wolf, Sir, with entire respect, personal and public; but I cannot help expressing my deep regret at the views which he seems to have adopted. I would even hope that the subject has not yet passed beyond his reconsideration, because I am fully aware of the weight and influence of Pennsylvania on this great question. Yet, Sir, I see nothing in this proceeding to alter my own view in the slightest degree. The state of things is not changed. The promulgation of such opinions by the chief magistrate of Pennsylvania, is, in my judgment, unfortunate, because its only effect is to prolong the sufferings of the country by postponing the only adequate remedy.

Sir, the agitations of the country are not to be hushed by authority. Opinions, from however high quarters, will not quiet them. The condition of the nation calls for decided action, for the prompt interposition of Congress; and until Congress shall act, be it sooner or be it later, there will be no content, no repose, no restoration of former prosperity. Whoever supposes, Sir, that he, or that any man, can quiet the discontents or hush the complaints of the people by merely saying,

"Peace, be still!" mistakes, shockingly mistakes, the real condition of things. It is an agitation of interests, not of opinions; a severe pressure on men's property and their means of living, not a barren contest about abstract sentiments. Even the voice of party, often so sovereign, is not of power to subdue discontents and stifle complaints. The people, Sir, feel great interests to be at stake; and they are rousing themselves to protect those interests. They consider the question to be, whether the government is made for the people, or the people for the government. They hold the former of these two propositions, and they mean to prove it.

Mr. President, this measure of the Secretary has produced a degree of evil that cannot be borne. Talk about it as we will, it cannot be borne. A tottering state of credit; cramped means; loss of property and loss of employment; doubts of the condition of others; doubts of their own condition; constant fear of failures and new explosions; an awful dread of the future, — Sir, when a consciousness of all these things accompanies a man at his breakfast, his dinner, and his supper; when it attends him through his hours both of labor and rest; when it even disturbs and haunts his dreams; and when he feels, too, that that which is thus gnawing upon him is the pure result of foolish and rash measures of government, — depend upon it, he will not bear it. A deranged and disordered currency; the ruin of occupation; distress for present means; the prostration of credit and confidence; and all this without hope of improvement or change, — is a state of things which no intelligent people can long endure.

On Tuesday, March 18th, Mr. Webster presented a memorial from citizens of Boston, with the following remarks.

It will be perceived by the Senate, that I have a roll before me of no ordinary dimensions. It is a protest, respectfully addressed to both Houses of Congress, against the recent proceedings of the executive government in regard to the public moneys of the United States, and urgently requesting Congress, by the interposition of its own just authority, to restore the Constitu-

tion and laws to that free and proper action which the public interest and prosperity demand. This paper, Sir, proceeds from a place not altogether obscure, not altogether unknown in the history of the United States. It comes from the people of Boston, assembled in Faneuil Hall; it comes from those walls in which the earliest accents of independence rang; from under that roof beneath which our young American Liberty shook her wings, ere she went forth, for the first time, to fly over a thousand hills, and to proclaim independence to three millions of souls. It was sent by those, and the sons of those, who, in the same place, in '74, '75, and '76, had heard the voices of Otis, of Warren, and of Hancock, and who gave to those distinguished speakers as much patriotic impulse as they received from them.

This paper is signed by 6,841 independent voters, tax-payers, and men of property of the city of Boston. Here are no men of straw. This paper presents the names of men of different habits and occupations, electors of that city; and, so far as I know, of a greater number of persons than any excited election has ever called together. The names are here for the inspection of the Senate; and my colleague, who is well acquainted with many of them, can vouch for their high standing and respectability. Whatever character the memorial may bear elsewhere, it here challenges investigation. The sentiments of the meeting at which the memorial was agreed upon approached nearer to a feeling of unanimity than is usual on such occasions; and the strictest investigation will be unable to detect in it any fault, even if accidental error should be discovered. The memorial has no secret communication with the government, or any department of it. I have heard, it is true, of attempts which have been made to influence some departments of the government by communications not destined to see the light or to reach the public ear. I will not say that by such communications the President has been deceived, but I will say, that, if he listens to them, there is great danger of his being deceived; and I hope he will look with great caution at any paper which comes to him without his possessing a full knowledge of those who framed it.

An honorable Senator from Tennessee, early in the session, expressed an opinion, with regard to these representations to Con-

gress, equally sound and liberal. He said he looked with distrust on any proceedings which had been got up by those who had any interest in the offices of the government. No such interest influenced those whose memorial I now present. They have no party feelings which would induce them to uphold the evils produced by the measures of those who administer the government, and they have no motives to make them causeless fault-finders with the chief magistrate. He has recently been with them, and they have received him with hospitality and cordiality. Many of them, though not all, preferred him for the distinguished station to which he has been elevated; but all saw that a majority so large as to command respect had placed him at the head of the government, and they cheerfully acquiesced. They wish nothing else but that he should complete the second term of his presidency with as much honor as has distinguished that of any of his illustrious predecessors. They are not eager complainants against the measures of the administration; they are not swift witnesses in the cause in which they are engaged; they did not rush forward to make known their sense of their own grievances at an early hour; they have not raised the cry of distress, whether distress existed or not; they come to speak their sentiments with moderation and firmness; they come to speak of their sufferings, and to describe a state of things they know to exist.

This paper has been brought here by a committee of gentlemen, of whom, as they are my neighbors and friends, I can hardly speak with delicacy; and especially as some of them are as well known to Congress as to myself, and need no recommendation from me. They are gentlemen of different relations in life, social and political. They come here to testify to what they know; to represent a state of things which they believe the majority of Congress cannot realize, and which they believe they cannot, without actual and personal participation, understand. Their mission is to Congress; they have no order to go elsewhere for relief, have no message for any other department of the government; and, believing that the evils of which they complain admit only of legislative remedy, they come to the legislature. Believing the law to have been violated, they come to Congress; believing that distress exists to a calamitous extent, and believing that no other power on earth can relieve it, their

commission is to the Senate and House of Representatives of the United States exclusively. Their protest is on such a subject, that no consideration on earth could have induced them to sign such a paper, had it not been for that alarming, shocking state of things, so deeply affecting the public interests. Has not all incredulity on the subject been satisfied? Have not the whole of the population, from Maine to New Orleans, been satisfied? Have not all their doubts been silenced? If there be, on the vast surface of this happy country, on the sides of its fertile hills, and in the soil of its rich valleys, — if there be any spot so favored that distress has not reached it, let the inhabitants of that spot rejoice; but let them rejoice with fear and with trembling, for so sure as the light of the sun, if I may compare what is beneficent in action with that which is deleterious, — so sure as the light of the sun will, in due time, penetrate the deepest shades of the forest, so sure is it that the distress which now affects the industry and prosperity of a great part of the country must act everywhere and be felt everywhere. In the opinion of these memorialists, the act of the Secretary of the Treasury in removing the public deposits from the Bank of the United States plainly violates the chartered rights of that corporation. And is it not so? The act is unrepealed. The benefit that was intended to be conferred on the bank for the services it was to render the government is not at present enjoyed by it. It has been deprived, then, of one part, and that the principal part, of the consideration which formed the ground of the contract which has been entered into with the government. How has it been deprived? The courts are open; has it been summoned into them? The law is in operation; has it been made to act on the bank as a delinquent corporation? No. No one arraigns it before a tribunal. Nobody brings it to trial for a violation of law. It exists, has its functions, as a corporation; but it is deprived of one of the principal advantages secured to it by its charter, and deprived for such reasons as are before the Senate and before the country.

The memorialists are not unaware, that, if rights are attacked, attempts will be made to render odious those whose rights are violated. Power always seeks such subjects upon which to try its experiments. The individuals to whom I have reference protest against the executive denunciation of the bank. They

protest against the executive chief magistrate raising, waging, and carrying on war against that corporation. They think they see the cause that has produced their present distress in the relations that have existed between the government and the bank. May we not distinctly see the origin of that controversy which has so much agitated, and still agitates, the country, and which carries so much distress to every family? Has it not assumed from the beginning, and does it not still assume, the character of a warfare between the President of the United States and the government of the Bank of the United States? It has not only been said in the common vehicles of party exultation and commendation, but it has been said within the walls of Congress, that, in triumphing over that institution, in conquering it, in bringing it to the feet of the President, he would earn for himself a more flourishing garland, a more glorious victory, than he won by the battle of New Orleans. The sentiment from which that mode of commendation sprung is easy to be seen. I fear there is a love of conquest, a thirst for victorious struggles, a delight in triumphing, which has brought on the conflict between the administration and the bank, while the interests of the people are crushed between active and defensive operations.

The memorialists think that such a controversy is out of place between the President and the bank, that the origin of his action should be far above it, that neither the bank nor any other corporation should entitle itself to any share of his personal hostility. They therefore protest against the continuance of that war between the executive on the one hand and the bank on the other, as it is destructive to them, injurious to the whole country, and not a little discreditable to its character in the eyes of the world. They protest against the act of the executive in regard to the public treasure, as tending to bring about that state of things which the gentleman from Kentucky has so often presented to the Senate, the union of the purse and the sword. They recognize the chief magistrate as the commander-in-chief of the army and navy of the United States; they recognize in Congress the power and duty to guard the national resources; and they think that the withdrawal of the public revenue from a place fixed by law, and settled by the charter of the bank, for reasons connected in no way with the safe-keeping of the moneys, but for opinion's sake, is an unauthorized act. After rea-

soning, and after inquiry upon the subject, the moneys were acknowledged to be safe. Congress having recently acted on the subject, and having seen no reason for the change, they are of opinion, that the reasons given for the removal of the public treasure are altogether insufficient.

They think that the effect of the measure is to augment the rapidity of a tendency which they believe to have been cherished by the government for some years past; and that is a tendency to increase power and influence in the executive hands. They are of opinion, that the removal of the public revenue from a custody where it was under the eye of Congress to a custody where it is only under the eye of the Secretary of the Treasury, is one great proof of the existence of the tendency to increase executive power. Are they not right? Where are the public treasures of the United States? No man in this Senate knows; no man in the other house knows. The last time that the Senate heard of them, they were deposited in certain banks not created or fixed by the will of Congress. They may have been changed, for aught the Senate knows, within the last half-hour, to some place which it knows not. What was the condition of the treasure six months ago? Was it situated as it is now? Did not every member know where the money was then? and had not Congress an account of it, and could it not see that it was all there? Has Congress any such right now? Has that house, or the other, the power to go to the Bank of the Metropolis in this city, or to the Manhattan Bank in New York, in order to see that the money deposited in those places is safe? The executive has now the possession of the public treasure, and Congress has no control over it. It is a fact not to be denied, that every dollar of the public money, ordinarily eight to ten millions, from the moment of its receipt at the custom-house and the land-offices to the moment of its appropriation under the authority of law, is under the entire, exclusive government of the Secretary of the Treasury, Congress knows not where, Congress has not directed how.

The memorialists think that this withdrawing of the public money from the inspection of Congress, from the guardianship of Congress, and placing it where it is subject to the guardianship and control of the officers of the executive government, is an encroachment upon the just rights of both houses of Con-

gress. They protest against that violation of the spirit of the Constitution. They profess themselves to be in favor of a national bank; but that is a matter which they would leave most cheerfully to the wisdom of Congress. They do not insist upon a national bank; that may be a measure of expediency or inexpediency; but they do insist that the law shall be upheld, that the power of Congress shall continue to be exercised in regard to the disposal of the public revenue, and that the public treasure shall be under the authority of those who have a right to the control of it according to law. They declare that, in the present state of the country, looking to the effect of those measures and the extent of the evil, they see no remedy but in Congress; they see no remedy till Congress shall take up the subject, and determine to act by its authority, and establish such measures of relief as its wisdom shall dictate.

Mr. President, I entirely agree with them, I agree with them altogether, that relief must come from Congress, or through Congress. But I wish to say that relief, though it come through the instrumentality of Congress, must have a higher origin. It cannot come from the executive department in the first place; the case is past the surgery of all such practitioners. No state doctors, beginning where they may, or ending where they may, have power over the present affliction of the community. Not one of them can pluck up this deep-rooted sorrow. It is a case in which the patient must minister to himself. The people must take the remedy into their own hands; they must act, indeed, on the case through Congress, but they must act by their own will and their own power.

The spirit, and the only spirit, that can move over the face of these waters, with power to reduce chaos to order; the only spirit that can cause this elemental strife to subside, and the sun again to appear in the east, — is the intelligent, manly, free spirit of the American people, summoned by the state of the country, and by the state of their own interests, to come and put a check to such usurpations of power, and to apply that remedy which they, and they alone, can apply.

On Friday, March 28th, on presenting a memorial from citizens of Albany, Mr. Webster said: —

Mr. President, I have the honor to present to the Senate a memorial from the city of Albany.

New York, Philadelphia, Baltimore, and Boston have already laid before Congress the opinions entertained in those cities by men in all classes of society, and of all occupations and conditions in life, respecting the conduct of the administration in removing the public deposits. To these Albany now joins her voice, a voice not less clear, not less strong, not less unanimous, than that of her sister cities.

It is well known to you, Sir, and to gentlemen on the floor of the Senate, that Albany, for its size, is an extremely commercial city. Connected with the sea by one of the noblest rivers on earth, it is placed, also, at a point at or near which many hundred miles of inland navigation, from the West and from the North, accumulate the products of a vast and fertile interior, and deliver them for further transport down the North River, by sailing vessels or steamers. In return for these riches of inland industry, thus abundantly poured forth to the sea, Albany receives, of course, large amounts of foreign merchandise, to be forwarded to the interior, and to be distributed for consumption in the western districts of the State, along the shores of the lakes, and even to the banks of the Mississippi itself. It is necessarily, therefore, a place of vast exchanges of property; in other words, a place of great trade.

Albany, I believe, Sir, has a population of twenty-eight or thirty thousand people. It has given, I learn, on interesting occasions, nearly, but not quite, thirty-eight hundred votes. The paper whose folds I am now unrolling, and which I have risen to present to the chair, bears twenty-eight hundred names, all believed to be qualified electors. Great pains has been taken to be accurate in this particular; and if there be a single name to this paper not belonging to a qualified voter, it is here not only by mistake, but after careful scrutiny has been had, for the purpose of avoiding such mistakes.

Every man, Sir, whose name is here, is believed to have a right to say, "I am an American citizen; I possess the elective franchise; I hold the right of suffrage; I possess and I

exercise an individual share in the sovereign power of the State; I am one of those principals, whose agent government is; and I expect from government a proper regard to my interests."

It will thus be seen, Sir, that this paper expresses the sentiments of three fourths as many citizens of Albany as have ever been collected, on any occasion, at the polls of the city. What these sentiments are, the Senate will be at no loss to understand, when the paper shall be read. Its signers possess the faculty of making themselves fully understood.

This memorial is brought hither for the purpose of being laid before Congress, by a committee of eighteen persons. Some of these gentlemen are well known within the walls of the Capitol, and none of them altogether unknown to members of this or the other house. They come, Sir, to vouch for the general respectability of the signers to the memorial. They come to answer for them, as persons capable of perceiving, not only the general fact that recent measures of government have deranged the business of society, but of seeing also precisely how those measures have operated on their own business, their own employments, and their own prosperity.

Unpromising, Sir, as the task is, ungrateful, nay, almost hopeless as it is, this committee have not declined the wish of their fellow-citizens, that they would bring this solemn appeal to the notice of the two houses of Congress. The Senate can learn from them, by personal inquiry, that there are included among the memorialists individuals of every class, occupation, employment, profession, and trade, in society. The members of the committee come to make good the declarations of the memorial as to the state of things actually existing at Albany.

Albany, Sir, has been flourishing and prosperous, and seemed rapidly rising to greater and greater heights of commercial importance. There are circumstances which would appear to have favored her, and to have enabled her to stand the shock better than her neighbors. In addition to her capital, it has been understood that she was benefited in her money operations, to a considerable extent, by the use or the custody of State funds. But the Senate will not be surprised to learn, notwithstanding all her advantages, that she has not escaped the general disaster. Whatever else is to be said against the Secretary's meas-

ures, they cannot be charged with being partial in their operation. They have the merit of impartiality, inasmuch as they produce universal distress.

Sir, our condition is peculiar. One hardly knows how to describe it. In the midst of all the bounties of Providence, and in a time of profound peace, we are poor. Our Secretary of the Treasury, Sir, is not Midas. His touch does not turn every thing to gold. It seems rather to turn every thing into stone. It stops the functions, and the action, of organized social life, and congeals the whole body politic. It produces a kind of instantaneous petrifaction. We see still the form of our once active social system, but it is without life; we can trace the veins along its cold surface, but they are bloodless; we see the muscles, but they are motionless; the external form is yet fair and goodly, but there is a cessation of the principle of life within.

Sir, if one could look at the state of the country at this moment, who had never heard what that "EXPERIMENT" is which the Secretary is trying, he would naturally suppose him to be some necromancer, some Prospero, who had power over the principle of action in the whole nation, and who was amusing himself, by the exercise of that power, in seeing what sort of a spectacle a great, busy, stirring community would exhibit, when his wand should bring all its members to a sudden pause, check them in a moment of great activity, and hold every one in the precise attitude in which he should be found when the charm begins; as painters, though they cannot represent progressive action on the canvas, can yet represent action suddenly arrested; or as the interior of the mountains discloses animals caught in full life and vigor, and imbedded for ever in the subsiding elements of the general deluge.

Or perhaps, Sir, such a spectator might suppose that our Secretary had been imitating infantile curiosity, which thrusts its busy fingers into the opened watch, for the sake of seeing how pretty its little wheels will look when they all stand still.

But whatever a disinterested beholder might think of the manner in which the Secretary is amusing himself with "experiments" upon the nation, the people of Albany have had quite enough of experiment. They find it efficient for every thing but good. There are some things, they admit, which it has fully

proved. It has proved the rashness, the delusion, and almost the insanity, of those who undertook it.

One of the most visible effects of this measure, to the people of Albany, is its check to the growth of the city. It has been fast increasing in houses and in the number of its inhabitants. But here are persons well acquainted with the facts and circumstances, who declare that the houses in building, this year, are not one twentieth the number of the last year. What is to be said in answer to that fact? The carpenter and the mason are standing still, with the rule and the trowel in their hands, to see when the Secretary shall have done with his experiment. Albany is a great lumber market. The very large sum of two millions of dollars is usually paid annually for this article in that city. But there is now no demand for it. The same causes operating elsewhere which operate in Albany, the timber is not wanted, cannot be used, and cannot be paid for. A great coasting trade is also, in ordinary times, carried on from Albany. Lumber and other articles, brought down the canals, are taken down the river, and scattered all along the shore, almost to the eastern extremity of the Union. And we all know what numbers of sloops and steamboats usually cover the surface of the Hudson, from its mouth to Troy. Last year, as I learn, from thirty to thirty-five steam tow-boats found employment between Troy and Albany and New York. This great extent of navigation gave wages, of course, to multitudes of industrious men, whose present power of finding employment may be judged of by the fact that six or eight of these boats are at this time adequate to the calls of commerce. The whole business, it is said, has fallen off at least two hundred per cent.

It is natural to ask, Sir, how the times have affected the usefulness of the great canal, the true glory of New York, that imperishable monument of the fame of a great man; a man of conceptions large enough to embrace a high and noble purpose, and who had steadiness to pursue that purpose through evil report and good report, let the strife of temporary party do its best and its worst, until he had accomplished it. I am told, Sir, that along the line of this great work the quantity of flour now ready to be embarked, when the season of business commences, is not more than equal to one tenth of the amount, last

year. The wheat is in the country, but there is no demand for it in the city. The farmers and the millers are obliged to keep it on hand. At the commencement of the harvest last year, wheat was worth a dollar a bushel in the western part of New York, and where, as I am now informed, it goes off heavily at 68 and 70 cents. There are cases in which the article has been carried to the usual place of sale, and carried back again, for want of buyers. Indeed, an instance is mentioned of a vessel which proceeded, from one of the towns on the river, to New York, lay at the wharf a week, without being able to sell a dollar's worth of her cargo, and then returned back with it to her place of departure.

It will be at once seen, that those measures of government of which the memorialists complain neutralize the benefits of the canal. They lower the price of wheat in the western part of the State, as much as the opening of the canal raised it. The cause of all this loss is obvious. There is no market; and there is no market because there is no money; and there is no money because the measures of government have deranged the currency, checked circulation, and shaken credit.

One of the gentlemen now here is extensively concerned in the business of transportation on the Western and Northern canals. He is connected with lines which own, together, two hundred canal-boats, and usually employ fourteen or fifteen hundred men, and as many horses. An immediate loss of employment for at least half of this capital and these hands is already among the consequences of the Secretary's experiment. This shows, Sir, how the measures of government affect wages, ay, Sir, wages, the only source of the poor man's income. Be it remembered, that the administration is waging war for the benefit of the poor. It has attacked the bank, laid hold of the public treasures, disregarded the votes of Congress, and thrown the whole country into a state of violent excitement, out of pure sympathy for the poor, and to protect them against the grinding power of moneyed corporations! Well, Sir, are the poor better off? Are wages higher? Is employment more easily obtained? Is labor more richly rewarded? Let the Senate judge of this matter, when I state, as I am authorized to do, that men in Albany, who, three months ago, were earning and receiving *a dollar and a quarter a day*, six days in the week, are now soliciting

employment for two days in the week only, and for *sixty-two cents* a day! And other industrious men, who were receiving a dollar a day, are now content to work for their board only.

There is in the city a large manufacture of iron castings for stoves, hollow ware, and machinery. Since December it is said that this manufacture has fallen off one half, and a hundred hands have been discharged in a day, most of them heads of families. If this be so, Sir, and the case be but a common one, a fearful account must be running up against those who have heedlessly brought such calamities on the laboring classes. There is also, I hear, a very extensive fur business done in the place; a single establishment employing no less than five hundred men and women in the manufacture of caps, of which article no less a number than two thousand is manufactured daily, in the season of work, if any one can conceive where they find heads for so many. From causes like those which affect other manufactures, this, I hear, is also unfavorably affected, as regards the great number of persons to whom it gives employment.

It would be easy, Sir, to run into other details and other particulars. It would be easy to follow the effects of this derangement of the currency, not only into all classes, but until we find it affecting the concerns of every individual, and touching the home comforts of every family. But such detail would be only repetition. All evidence and all argument must be lost on those who do not already, from what the country exhibits on all sides, see, and feel, and acknowledge, that the distress of the times is universal and unparalleled.

If, indeed, these memorialists, or other petitioners from the same State, needed confirmation in their representation of the present state of things, it might be abundantly found in the late communication from the executive of New York to the legislature. Distress is no fiction, when the extraordinary measure of a State loan is necessary, to sustain the common operations of business, and to give new credit, or at least new power of accommodation, to the banks. It is no trifle, certainly, when such a measure is proposed, and when it is recommended, not indeed by the executive himself, but by those who support and justify it, by reference to precedents in Revolutionary times, and in the days of State bills of credit. It is no merely pretended

state of alarm, when the banks find two millions of their own paper returning upon them, while they curtail their loans but six hundred thousand dollars. This message, Sir, admits a state of things, and argues upon a state of things, the existence of which has hitherto been loudly denied by nearly all the friends of the administration. As to the measure proposed by the executive of New York, it becomes me, of course, to say little of it, and, indeed, to say nothing, except so far as not only New York, but the whole country, may have an interest in it. I abstain from any thing of a local nature, or belonging exclusively to State politics and State concerns. But, Mr. President, I may be permitted, I hope, to say, that it fills me with deep and unfeigned regret for the present, and with sad, sad forebodings for the future, to see the great State of New York, instead of concurring in experienced and well-approved national measures to promote a national object, intent only on applying local means for local relief.

Instead of giving a lead, in the national councils, to measures of a general character, such as embrace the whole country, and such as she herself has heretofore repeatedly supported, it is painful to see her denying to this government powers so long acknowledged by herself rightfully to belong to it, and to find her driven to measures of at least a novel and questionable nature, to uphold those interests which she, and a majority of all the other States, have heretofore not only admitted, but strenuously contended, were confided to the just guardianship of the general government.

I observed the other day, Sir, and I said it neither for the sake of sounding an alarm, nor of turning a sentence, that, if this experiment of the executive government is suffered to go on, it will bring us to consequences nearly touching the powers and the continued action of this government. I verily think so. As surely, Sir, as you sit in that chair, or as I stand on this floor, our tendencies at the present moment are strong towards disorganization, to the times of State securities, bills of credit, separate State currencies, and paper money; and, if those tendencies be not seasonably arrested, they will make shipwreck of our highest interests. The chain of a common currency, a common standard of value, a common medium of exchange, is in imminent danger of being broken. Induced by our relinquish-

ment of our own just rights, and the abandonment of our own proper powers and duties, individual States, under an alleged necessity, will march on, but without concert or coöperation, to greater and greater control over the currency of the country.

Whatever gentlemen may say of the limitation of the power of Congress to the exclusive regulation of coin merely, I cannot but be persuaded, that that authority which is to regulate by paramount laws the commerce between the States must of course regulate that, whatever it may be, which is to perform the office of money in carrying on this commerce. Can any man maintain, that the sovereign power over commercial regulation rests in Congress, but that the power, nevertheless, of regulating the great agent of that commerce, money, is vested in twenty-four different States? Is our system thus disjointed and deformed? I repeat, Sir, what I have so often said, and what I believe with the utmost sincerity of conviction to be true, that, unless by wise legislative provisions, enacted by the authority of Congress, we secure the safety of the currency, we are not only in great peril of a paper-money system, but we omit to maintain that which is one of the best, the easiest, the most grateful, and the strongest ties of our national Union.

When it had become doubtful whether the present Bank of the United States would be continued, and especially after it was supposed probable that no bank would hereafter exist, under the authority of Congress, we know what followed. Gigantic projects of State banks sprang up everywhere. We hear of propositions for new banks, with very large capitals, in Kentucky, Tennessee, Ohio, and Louisiana. We see a motion in the legislature of New York for a new bank with a capital of ten millions of dollars, only giving way to a proposal for a loan of four millions; it may probably be much larger. We see, at the same time, in Pennsylvania, an application for a bank with ten millions capital, *and a power to have branches in other States.*

Mr. President, we are thus breaking off from our accustomed course of public policy on this great question of the currency. We are throwing its disposition into other hands; and we are doing this, because the constitutional power of Congress to establish a bank is denied; denied in quarters where it has heretofore been most zealously asserted. The respectable gentle-

men who represent the State of New York in the Senate, both of them, stand up now, in the forty-fifth year of the government, and declare, as representatives of the State of New York, that Congress transcends its power when it establishes a bank! This, Sir, is not a little extraordinary and portentous.

Mr. President, I have faith, stronger than that of most others, I believe, in the duration of this government; and I mean, if possible, to die believing; but I confess I sometimes feel misgivings, when I see powers of government, of the very highest importance, held to be constitutional or unconstitutional according to the prevailing party politics of the moment; powers found in the Constitution to-day at the first glance, but not to be found in it to-morrow by the most searching construction; powers to-day safe, necessary, and useful; to-morrow, unsafe, unnecessary, and destructive of liberty. Sir, when these respectable gentlemen were in their cradles, or at school, the delegation from New York, in both houses of Congress, gave their unanimous support to the bill incorporating the first Bank of the United States. They concurred, to a man, with General Washington in affirming the constitutionality of a bank, owning its expediency, and actually creating and establishing it. This was the constitutional opinion of New York in 1791. In her delegation, in both houses, were gentlemen who had been active and leading members in the Convention which formed the Constitution, and had just come fresh from that great work into Congress. Having helped to frame it, having argued it before the people, they came now to administer it. With the Constitution before them, the work of their own hands, with a perfect knowledge of their own purposes, and the purposes of others, in framing it, they voted to establish a bank. We know that, of all the members of the first Congress who had been members of the Convention, very few voted against the bank on any ground whatever. A great majority, I believe three or four to one, were in favor of it on all grounds. New York, at least, was unanimous; with her there was no doubt or hesitation.

In 1811, the charter of this first bank expired. It was a day of great party excitement, and party did unquestionably mingle itself with the proposition for the renewal of the charter. The constitutional question was then raised, and the bill for continuing the bank was rejected, if I remember, by the majority of a

single vote in one house, and by the casting vote of the presiding officer in the other. Of those voting against the renewal, some proceeded on grounds of constitutional objection, and others on other grounds, as was recited to us, fully and particularly, some sessions ago, by an honorable gentleman then a member of the Senate from Maryland.

But those who at that time voted against continuing the first bank found, by even a short experience, that they had taken an erroneous view of the subject. Within three years, they became themselves strenuous advocates for a bank; and when the bills of 1814 and 1815 were before Congress, the New York members, generally speaking, were among their most zealous advocates; or, if any of them were opposed, such opposition did not rest at all on any constitutional objections. Bills, Sir, which I thought were unconstitutional, bills which I could not vote for, bills which I thought contained such provisions as transcended the power of Congress, such, for example, as that exempting the proposed bank from specie payment, found zealous and able supporters among the members from New York; none more able, none more zealous. And, Sir, how was it in 1816, when the present bank itself was established? Was the great State of New York then found standing on constitutional objections? Was she found opposing the bank, as a great moneyed power, dangerous to liberty, establishing an aristocracy, and without an inch of ground to stand on in the constitutional power of Congress? Was judicial authority then rejected, all precedents resisted, and the acquiescence of the people and of the States set at naught and derided? Was there even the slightest doubt expressed of the power of Congress to make a bank? Far from it. Of the *twenty-seven* members from New York, then in the other house, only *seven* voted against the bill; and most of those seven are known to have so voted, not on constitutional grounds, but on particular objections to some parts of the bill. Indeed, most or all of the seven had not long before voted for a bank, with provisions somewhat different, and such as suited them better. Constitutional scruples, therefore, there were none. One of the votes in the Senate, it is possible, though I know not the fact, may have been given on such scruples; but it is safe to say, that at least nine tenths of the delegation of New York, in both houses of Congress, either actively

supported the establishment of the present bank, or fully and expressly admitted the power of Congress to create it. It was created; they helped to create it; without them it could not have been created. It is the creature of New York opinions and New York power. And in all this, Sir, the legislature acquiesced, and the people acquiesced.

Now, Sir, when this plain and incontestable history of the past is contrasted with the solemn declarations, the labored arguments, and the patriotic invocations to liberty, which we have heard uttered on this floor against all national banks, and all power of Congress to establish such banks, is it without reason that I consider such changes of opinion and conduct as things not auspicious to the future progress of our government? Is it mere faint-heartedness which brings on these forebodings, when I thus see that opinions, on great questions, of the power of Congress, change their hues, and run through all the colors of the prism, according to the shifting attitudes and varying positions of temporary political parties?

But, Mr. President, if I may be allowed, since it affects questions of great common concern, to speak of opinions existing in States to which I do not belong, I fully believe, notwithstanding all appearances to the contrary, that three fourths of the people of the State of New York always have been, and now are, clearly of opinion that a Bank of the United States is a constitutional, a useful, and a necessary institution of this government. I speak, Sir, of the spontaneous sentiments of the people, and not of such principles of action as, being recommended by organized bodies, a majority of the people may be induced to adopt as the basis of political and party associations, and act upon accordingly; and I entertain not a particle of doubt, that, if the question could be put to-day to the whole people of New York, unaffected by collateral matters, three fourths of the whole would be in favor of a bank. Nor would it be at all difficult to give reasons for this opinion, notwithstanding any inference to the contrary from occurrences here.

But, Sir, I am pursuing these reflections farther than the occasion will justify. I may not, Sir, presume to address myself to the people of the State of New York; I may not take upon myself the character of an adviser of them; but since the good citizens of Albany, through their committee, have done me th

honor to make me their organ on this occasion, I hope *they* will forgive me if I say to them, that, for the evils which they suffer, they themselves must assist to furnish the remedy. A gentleman on the other side of the Senate has said, and said truly, that these great questions must be settled at the polls. To the polls, then, let them be brought. If the right of suffrage be not an idle form, if self-government be not a delusion, if there be any thing true in the idea of popular intelligence, then political mismanagement must be corrected by political elections. I have said so often that redress *can come only from the people themselves*, that it must fatigue the ear to hear it again. I beseech the good citizens of Albany to lay this truth to heart.

If they are in earnest, if they really feel the evils of misrule, let them touch the right spring to restore proper action to the machinery of government; *let them take hold of the right lever.* They complain of violation of law; let them seek to obtain the passage of other laws which shall redress such violation. They complain of executive encroachment; as far as depends on them, let there be a legislature which shall allow no such encroachment. Some of them, with other citizens of the State, have lately acted on the principles of a motto, taken from the words of a great and good man, now removed from this scene of things. I would beseech those who have adopted that sentiment for one occasion to apply it to another of still broader interest. It is a sentiment fit for any crisis, and especially suited to the present. It is a sentiment becoming republicans. It is a sentiment fundamental to all free governments. I cherish it, not only as it is expressed in the words of a valued friend not now among the living, but for its plain truth and its mighty importance. I beseech all who value the blessings of free government, and of civil liberty, to embrace it, and act upon it. I pray them to give it scope and energy, such as the present exigency of the country requires. Let it have power to overcome minor differences; let its conciliating influence unite the heart of man to man; let it melt all smaller objects into one great purpose of honest and resolute patriotism; and let all who mean to die as they live, citizens of a free country, stand together for the SUPREMACY OF THE LAWS.

On Tuesday, April 25th, Mr. Webster presented a memorial from three thousand citizens of Ontario County, New York, against the removal of the deposits, with the following remarks: —

These memorialists are farmers, mechanics, merchants, and other citizens. They represent that they inhabit a portion of Western New York essentially agricultural, and second to none in fertility of soil and other natural advantages. This will be readily admitted by all acquainted with the county. It is in the beautiful Lake country, is large, constituting a Congressional district by itself, and is doubtless in the very first class of agricultural counties. Its great products are wheat and cattle, and its principal manufacture that of flour, although there are in the county manufactories both of wool and cotton. Ontario, in its leading character, is a county of intelligent farmers. It belongs to that interest which is at once the most general in the United States, and is also the basis of other pursuits. Its rich lands, and other local advantages, have invited into it, as the memorialists state, considerable capital, and stimulated strongly the industry of the people. The growth of the county is good proof of this. This growth resembles the vigor with which population has spread forth, and penetrated the wildernesses, in regions beyond the Alleghany. I am old enough to remember when he who had seen the Seneca Lake had performed a journey from the Atlantic coast fit to be spoken of; and I see it stated, indeed, in some interesting recent account of the settlement of this part of New York, that, when the county of Ontario was established, it contained only a thousand inhabitants, though it extended from the Seneca Lake to Lake Erie, carrying the whole breadth of the State between Canada and Pennsylvania, an extent of country now embracing thirteen or fourteen counties, with a population of nearly four hundred thousand. A country so rapidly growing, with so much necessity of sale, purchase, and exchange, of course requires credit, and confidence, and a stable currency, to conduct its business beneficially. The memorialists declare that the effect of recent measures of government has been most disastrous on all their great interests. The farmer, the merchant, the mechanic, all feel alike the pressure of the times. Produce has fallen from twenty-five to thirty-three per cent. in price, since the interference of the executive with the public revenue; and land, land itself, the great capital

of the county, the form in which the vast proportion of its property consists, has fallen, within the same time, to the same extent. I receive this information from sources to which I give entire credit.

Here, then, is a reduction of twenty-five or thirty-three per cent. in the whole property of the people, a striking off, at a blow, one quarter or one third of the whole value of what they possess! Sir, is this tolerable? All this, too, done under pretence of an *experiment*, but really and truly out of hostility to a banking corporation; out of hostility to an institution which has existed with great usefulness to the country, which is now approaching a time when it might be modified, altered, and accommodated to any new state of things, or so as to accord with the lights of past experience, and be continued, with every prospect of advantage to the country. How can conscientious men feel themselves justified in pushing, with such ruinous effects on the people, a quarrel of this kind to this extent? How do they find within their own bosoms a monitor to tell them that all this is right? If the bank was not to be renewed, why not let it quietly expire? and why not leave the public moneys in it till it should expire? A measure so causeless, so uncalled for, so destitute of all reasonable object and all just purpose, and so disastrous in its effects on the whole body of the people, is, so far as I know, nowhere else to be heard of. This changing the custody of the public money, without authority of Congress, is, as a measure of policy, wholly without justification, and, as a blow on the prosperity of the country, wholly without example. The people ought not to submit to it. Their respect, their attachment for any individual, however strong that respect and attachment may be, ought not to make them willing to submit to such an extension of executive power, and to the consequences which flow from it. And I am sure they will not submit. The country is effectually roused. The people feel a spirit stirring within them, which they know is the spirit that has come down to them with the blood which fills their veins. It is the spirit of their fathers, who did not wait till unjust power had crushed them, but who saw its approach in the lowering storm, snuffed it in the tainted gale, and met it, and resisted it, and repelled it. It is the most alarming circumstance in our whole condition, that, in order to justify the re-

moval of the deposits, principles are advanced by the executive which threaten a change in the substantial character of our government. The argument which is to justify the executive in this instance seems to me to leave little or no control to Congress over the public treasure. We thus see a constant advance in the claims of power. Those who defended the paper read to the Cabinet probably never expected to be called on to support such reasons as were afterwards given by the Secretary; and those who made up their minds to stand by the Secretary's report could not have foreseen, that, ere long, they must prepare themselves for the doctrine of the Protest. And what is next to be put forth, time only can show.

Sir, a month or two ago an honorable member of New York spoke with pleasure of the unanimity of feeling which prevailed in New York, and of the quieting, in some measure, of what he thought an unhappy controversy, which had existed heretofore in the western parts of that State particularly. I think, too, Sir, there are signs of union, and much stronger signs than there were when the gentleman alluded to the subject. Sir, the letter addressed to the honorable member from Kentucky and myself, committing this memorial to our care, is signed by names many of them not unknown here. They are Nathaniel W. Howell, John C. Spencer, Mark H. Sibley, James D. Bemis, Z. Barton Stout, John Dixson, Phindres Prouty, H. R. Schermerhorn, Robert Carey Nicholas, Abraham C. Post, Samuel Rawson, Stephen Bates, and Moses Fairchild.

Those who know these gentlemen will recognize among them persons whose political opinions have not been the same on all subjects, nor their political objects always identical. Yet they are united. They are united, as in a common cause, and seeking to remove a common evil. They come with one voice to Congress; they speak with one voice to the people; and I trust they will act with one heart and one mind in the present exigency of public affairs. It is to this union, to these united counsels and united efforts, to this sense of common danger and this common sacrifice of minor differences to high patriotic duties, that I look, and look confidently, for the salvation of the country. Every day accumulates new proofs of this growing harmony of public sentiment. Far and near, there is a rallying for the Constitution and the laws. Three days ago, we heard

of the clamorous and factious shouts of the citizens of Baltimore. Another peal now reaches us from the multitudes assembled in those same streets; and in this peal mingle many new voices of powerful tone. Sir, the American people are so well schooled in the great doctrines of free government, that they are competent to teach first principles, even to their rulers, if unhappily such teaching should become necessary. They will teach them that public complaint for maladministration of government is not clamor; that indignation for unnecessary and severe national suffering is not treason, either legal or moral; that to resist the encroachments of power is not to cabal against government; and that the people themselves are not a faction.

On Tuesday, May 20th, Mr. Webster presented to the Senate a memorial from citizens of Columbia, Lancaster County, Pennsylvania, remonstrating against the measures of the executive, in relation to the Bank of the United States, and the executive Protest against the proceedings of the Senate.

Mr. President, I am more fortunate than the gentleman near me, the member from Pennsylvania, as I am about to present to the Senate a paper, in the sentiments of which I heartily concur. It is a paper which records the proceedings of a Whig meeting in the town of Columbia, Lancaster County, Pennsylvania. Columbia is a respectable town, as most of the Senate know, on the Susquehannah, containing two or three thousand inhabitants, and by its position much connected with the inland trade in lumber and articles of agricultural product, as in the great line of communication between Pittsburg and Philadelphia by those noble canals and railroads by which the enterprise of Pennsylvania has connected those two important points. The memorialists partake in the evil of the times. They have not escaped that impartial and undistinguishing scourge, "the experiment." They feel its heavy hand upon them, in the stagnation of trade, the want of employment, the disappearance of credit, and the flight of commercial confidence. Sentiments like theirs, strongly and ably expressed, have just been heard, in the memorial of the Antimasons of Alleghany County. Like the Antimasons of Alleghany County,

these Lancaster Whigs are satisfied with their experience of the experiment; and, like them, they protest against the Protest.

The Alleghany memorialists declare their opinion that the removal of the deposits was made without just cause, and that therefore it violates the word of honor of this government. And among the resolutions adopted by the Whig meeting at Columbia I find the following:—

"*Resolved*, That the Bank of the United States has acted the part of a useful and faithful public servant; that the war now being waged against it is foolish, wicked, unjust, and calculated to injure the best interests of the country; and that the charter of that institution ought to be renewed, with such restrictions and modifications as the public good may require and the judgment of Congress ordain."

I believe this resolution is entirely true. The present state of things, in my judgment, exhibits the laws transgressed, the chartered rights of a corporate institution violated, the word of honor of the government broken. I think the withholding the deposits from the bank is a daily wrong, a confirmed infringement of its legal rights, inasmuch as it stipulated for the custody of these deposits, paid its money under that stipulation, and had done no act whatever contrary to its contract. I believe the suffering of the community is brought upon it by an act, not only unwise, but unjust; not only an act of folly, as it affects ourselves, but an act of positive wrong to others.

Mr. President, this is perhaps as fit an occasion as may occur to say something upon the motion which I made to the Senate, in the latter part of March, for leave to bring in a bill to continue for six years the charter of the Bank of the United States, with certain modifications. At that time, Sir, the country had been trying this notable experiment, or rather its own patience and forbearance had been on trial under its operation, almost six months. All men of the least pretension to sense and candor had become satisfied that very great distress existed in the country. The time for doubt and denial had gone by. The sneers which had previously been manifested in the Senate, whenever the pressure on the country was alluded to, had ceased. However men might dispute about the cause of the distress, the fact of its existence was too plain to be gainsaid. The merchants, the farmers, the manufacturers, and the mechanics had loaded

our tables with their remonstrances and memorials, and filled our halls with their committees. No measure of relief, meantime, was suggested by gentlemen connected with the administration. The only remedy was, as it now is, endurance. If we spoke of distress, they bade us hold our tongues and bear it. The sum and substance of their political philosophy was, "We must stand by the President; we must hold on upon the experiment."

In this state of things, Sir, I felt it my duty to prepare, for the consideration of Congress and the country, some measure of immediate and efficient relief. It might be rejected; but then an offer would have been made. The devotees to the experiment might cling to it, extol its wisdom, and predict its success; but the country would have an option. The condition of the country was such as was not to be trifled with; and therefore I sought for a measure that, if adopted, could not fail to be effectual. Against rash experiment, I prepared well-tried experience; in opposition to daring and speculative theory, I offered what forty years had proved to be safe, practical, and beneficial. Allow me to advert to the main provisions of the bill which I recommended, as I desire its character should be kept, to the eye of the public, in a clear and distinct light.

What the bill proposed was,—

A short continuance of the present charter, *with an addition of its exclusive right;* so that, while this bank still continued, Congress, at its leisure, might provide another, if it chose, and bring it into existence, to take the place of this, at the end of six years;

A restoration of the deposits;

And a provision for enlarging the specie circulation, so as to increase, in fact, to a great extent, the hard money of the country, and to discountenance the circulation of small notes.

This is the substance of the measure, and if it shall be adopted the country will be relieved, and the bank will have time to collect its debts, and wind up its concerns, Congress will be at liberty, also, to adopt any system for the future which its wisdom shall approve; it may recharter this bank; it may create a new bank; it may decide it will have no bank. Meantime, and until its final decision shall be made, business will resume its wonted course, employment will revive, labor will be again in demand, commerce will spread its sails, and revenue begin

again to flow into the treasury. If there be one intelligent individual who denies that all these consequences would immediately follow the passage of this bill, that individual I have not met with. What is said is, not that this measure would not produce these beneficial effects, but that we can get along without it; that the experiment will yet succeed; and that, at any rate, the President and the party will put down the bank. If, Sir, this bill had passed within a fortnight from the time of its introduction, the country at this hour would have begun to resume its accustomed prosperity, activity, and cheerfulness; we should have despatched the public business, and been ready to go home, by the first day of June, to receive the cordial welcome of our constituents.

If we could pass it now, although the case has been growing constantly worse, yet even now it would in ten days give an entire change to the face of things. It would in a month put the cotton-mills again in motion, bring up the prices of lumber, wheat, and other products of the farm, reanimate internal trade, put life into the factories, and the mechanic pursuits, in which life is now suspended, gladden labor with the certainty of fair wages, restore confidence, bring back credit, and make the country once more what it was twelve months ago. All this good is within our reach, if we will abandon theories, when they are proved and demonstrated to be fallacious; give up follies, now that they stand as exposed and acknowledged follies; and restore the reign of the law, of justice, of good sense, and of experience.

When I last addressed the Senate on this subject, in the latter part of March, I manifested my intention to call it up again on the 21st of April. The opinion of the Senate, both on the causes of the public distress, and on the proper remedy, were very well known. A majority, it was not doubted, disapproved the whole executive proceeding in removing the public moneys from the bank, and would regard their return as the first step in reëstablishing a proper state of things. And a continuance of the present bank, with modifications, was supposed, also, to be the measure which a majority was most likely to concur in, as the remedy best suited to the occasion. The House of Representatives had done nothing to commit itself, one way or the other. Whatever might be conjectured of its course, it had come to no decision.

But before the 21st of April came, that honorable body had expressed its opinion. It had decided, by a very large majority, and in the most general terms, that the bank should not be rechartered. While this purpose remains, it is obvious that any proceeding of the Senate on the subject must be nugatory. The Senate cannot recharter the bank. The Senate, of itself, has no power to pass measures for the public relief. It can, indeed, check the measures of other branches; it can resist what it deems to be wrong, and it may show itself ready to concur in wise and proper measures of relief; but it can do no more. It would seem, therefore, to be hardly worth while to occupy the attention of the Senate with propositions for relief, to which the other house has, beforehand, manifested its determined opposition. Until there is some intimation of a change of opinion in that house, it is useless to press the measure which I proposed. For the present, therefore, I shall suffer the subject to remain where it is. When I shall next call it up will, of course, depend on circumstances. Of the measure itself, I retain the same opinion as I expressed on its introduction. It is a prompt measure; it is an efficient measure; it is a conciliatory measure; and it is the only measure which promises relief to the country. These are my opinions; and those who oppose this measure, and have nothing to propose but a confirmation of the present state of things, act on their own responsibility.

Sir, the question is before the country. Shall the bank be rechartered for a short period, until it can collect its debts, and wind up its concerns, without distressing the people? or shall it be left to collect its debts in the short period of its charter which yet remains, whatever may be the consequences to the public?

Mr. President, if Congress see fit to embrace the latter branch of the alternative; if it will not recharter the bank, even for a day, or under any modification; if it will make no new bank; if it will leave the country, in its present condition, to struggle with its difficulties and its distresses as it can; — it will be recollected, at least, that all this is not the result of necessity. It will be recollected that a different policy was proposed; that a fair and conciliatory measure was offered, was earnestly pressed on the attention of Congress, and was rejected.

Let gentlemen, then, Sir, take the consequences upon them-

selves. If the summer shall prove to be one of great embarrassment; if business shall be suspended; if trade shall stagnate; if employment for labor shall not be found; if the revenue shall fall off one half, — let it be remembered, that these consequences, one and all, might have been this day easily prevented; that plain, easy, and adequate means of prevention were proposed, but that gentlemen chose to adhere to their theories, their experiments, and their predetermined course of policy, against all remonstrances, as well within the walls of Congress as without.

Mr. President, while, like others, I am engaged here every morning in presenting to the Senate the proceedings of public meetings and the memorials of individuals, supplicating Congress to restore the public prosperity and to reëstablish the authority of the laws, I think it due to those who thus do me the honor to make me the organ of their sentiments and their wishes, and indeed to the whole country, that I should express my own opinions upon the present state of things, and upon the prospects before us.

In the first place, then, Sir, I wish to express my belief, that nearly all practical men and men of business in the country, friends or foes of the administration, have become satisfied that the "experiment" is a complete failure. Whatever some may, at one time, have believed, and whatever others have hoped, eight months' experience has settled the question. Yes, Sir, I believe that friends as well as foes now see that the attempt to sustain the currency and maintain commercial credit by the aid of State banks has hopelessly failed. With all the aid of government, with all that party zeal could do for them, these banks have not been able to relieve the community; they have not been able to restore confidence. Confidence is a thing not to be produced by compulsion. Men cannot be forced into trust. Good credit, within local limits, these banks, or some of them, possessed; but there it naturally stopped, and cannot be forced farther.

As far as I understand, at least in this part of the country, the usual occurrences are these. If a man has the notes of State banks to any amount, he goes to the banks, and gets specie for them. Having obtained his specie, he very often goes to the Bank of the United States, and exchanges it for bills. The re-

turns made to Congress from the deposit banks, and all our information, official and unofficial, clearly show that they are not competent to relieve the country. The experiment, I repeat, Sir, has already failed. Men feel that it has failed. The friends of the administration feel that it has failed. I speak confidently, and am willing it should be remembered that I have so spoken; and I say that at this very hour, in my opinion, the conviction is general that the measures adopted by government have not produced, and cannot produce, the expected beneficial effect.

As to what is before us, Sir, my opinion is, we are to look forward to a summer and autumn of very great difficulty. There may be occasional and temporary relaxations of suffering, but there can be no permanent relief. Men of capital will be alarmed; active men of business will be timid; those who have any thing will rather seek to secure it, than to hazard it in the attempt to make more. Employment will be scarce, wages low, and above all, or rather, perhaps, as the cause of all, a want of confidence, an uncertainty about the future, a distrust in the currency, and a distrust in government, will continue to paralyze the whole community.

If we break up here, having done nothing, we shall go home to meet nothing but complaints and trouble. Can any of these advocates of "experiments" tell me how the condition of the country is to be changed for the better before the next meeting of Congress? How is business to revive? How is occupation for the laboring classes to be obtained? How is commerce to be extended? How is internal trade, especially, to regain its facilities and advantages? How are exchanges to be reëstablished? And what is to become of the revenue? Will gentlemen longer sleep over this last subject? Do they not now see, that the Secretary's estimates cannot be realized? Sir, the honorable member from Kentucky has called for an account of the receipts at the treasury for the year, thus far. When those accounts come, they will open gentlemen's eyes; they will show sad disappointment. I cannot speak with precision as to the extent of defalcation, but I do not speak altogether at random when I give my opinion on this subject. From the best lights I can obtain, there will be a deficiency in the receipts of the customs of at least one third of the expected amount; perhaps

nearer to a moiety than to a third. Such is the direct effect of the *experiment* upon the finances of the country. Having, Sir, expressed these opinions, there are others, also, which I think it right to state.

With all respect, Sir, to both houses of Congress, and notwithstanding all that we hear, in one or the other, against the power to create a bank, I am fully of opinion, nevertheless, that two thirds of each house are convinced of these two propositions: First, that a national bank is constitutional; second, that a national bank, in the present state of things, is indispensable. This may appear inconsistent with what has taken place, but I fully believe it is all true. This paradox, if it appear to be one, is easily explained by considering the circumstances which may, and which do, control the actions of public men. One question gets mixed with another; opinions give way to notions of present expediency; and the consequences of appearing to give way and abandon a favorite course of policy are more feared than all other consequences. Sir, if the executive would but signify his assent to such a proceeding, we should recharter the Bank of the United States, at least for a short time, restore the deposits, and go home to the people in three weeks.

We sometimes hear intimations thrown out, that the administration may itself yet propose a bank; some sort of a bank; a bank not on the usual principles, but on some new principles. "New principles," it is frequently said, are to be applied to the case. I am not aware, Sir, from my own reading or observation, that any *new principles* in banking have been discovered, at home or abroad, for the last quarter or half a century, unless it be that certain notions which have been suggested among us, some time since, and recently, but never adopted, may be called new principles. I will advert to some of them.

One is, that we may create a bank, with a large capital, and establish it in this District; not for the convenience of the people here, but for the benefit of the whole United States. Now, Sir, he must have singular ideas of constitutional law, who denies that Congress can make a bank at Philadelphia, with branches in other States, and yet contends that it may establish a bank here, which may send its branches into all the States. And as to a bank with a large capital here, where there is so little commerce, with no branches in the large cities, where com-

merce does exist, the notion is too preposterous to need refutation. This "new principle," then, Sir, be assured, will not be carried into operation.

There is another "new principle"; and that is, to establish a bank on the funds in the treasury. It is hardly necessary to say that the time for this, if there ever was a time favorable to so crude and so dangerous a project, has quite gone by.

We have had, too, Sir, at different periods in our history, suggestions favorable to the exemption of banks from liability to pay their notes in specie; in other words, favorable to a sheer, confessed paper-money system. These suggestions, it may be, have become part of the "new principles," which it is intended shortly to exemplify. The country, I trust, will not run into any such folly.

Again, I have heard it said, that, although there may be a bank hereafter, yet it must be a bank in which the government, that is, the executive, shall have direct participation and control. I need hardly say, that, for one, I shall not consent to any such project for extending executive influence. I shall not agree to make a very bad bank, for the sake of making a very dangerous government. In short, Sir, I reject and repudiate all these new principles. I shall set my face against all banks but a specie-paying bank, a hard-money bank, a well regulated and well constituted bank, established on principles safe to the government and safe to the people. If we cannot have such a bank, the next best thing will be to have none. Gentlemen may set their hearts at rest, Sir, about all these new projects. The country is too wise, it has already had too much taste of *experiments*, to countenance any one of them. If there be not a sound bank, a safe bank, a bank independent of executive control, there will, for the present at least, be no bank at all.

I have only a few words more to say, Sir. We are already far advanced in the session. The heats of summer are approaching; and what is to be done? Is the administration prepared to see the session break up, and members go home, leaving these things as they are? Is such the intention of the executive? Is such the intention of members who support the executive? I still remain of the opinion formerly expressed, that it is our absolute duty to adopt some measure of relief, before we leave our seats. But the responsibility is not on us. The Sen-

ate can do nothing. We are not responsible either for the present or for future difficulties.

We have not brought about this state of things; we have not removed the deposits; we have not broken the plighted faith of government; we have not deranged the currency; we have not shaken credit and confidence; we have not brought on failures, bankruptcies, and ruin; we have not obstructed trade; we have not checked manufactures; we have not starved labor; we have not impoverished the treasury. It is for those *who have changed the state of things*, it is for those *whose political acts have placed the country in the condition it now is in*, to take and to bear the responsibility. When we foretold this, we were derided as prophets false or prophets ignorant; complaints of distress have heretofore only produced sneers, sarcasms, and attempts, poor attempts indeed, at ridicule. But the evil has come in a shape too formidable to be disregarded. Here it is; and how do its authors intend to deal with it? Sir, I am as anxious as any member can be to go home. I stay here at great inconvenience and sacrifice; but I am willing to stay till the last hope of doing any thing useful has faded away. I will stay till the dog-days come, if it promise benefit. If the administration has any thing to propose, I will stay and hear it. If it meditates any measure of relief, I am willing to wait the result of its meditation. I hope, therefore, gentlemen will tell us, I call on them to tell us, whether the executive has any thing further to propose. Does it desire the prolongation of the session? Has it any thing, or does it expect to have any thing, to submit to us? The friends of the executive have the power. They have, too, the responsibility. They reject every thing which we think useful; and they propose no change from our present condition. They can relieve the country at once, if they choose. If they will but sacrifice their own prejudices, their stiff adherence to their own opinions and purposes, on the altar of the public good, they could relieve the country in three weeks. It is for them to decide whether this sacrifice shall be made. And I now repeat, Sir, and it is the last remark with which I shall trouble you, that, unless some efficient measure be adopted before we separate, we have a summer and fall before us such as this country has not experienced.

In the Senate, on Tuesday, June 3d, Mr. McKean presented the memorial of the Pennsylvania State Convention, assembled at Harrisburg, May 27th, 1834, introducing it with appropriate remarks. The memorial having been read, Mr. Webster rose and addressed the Senate.

Mr. President, — Is this the voice of Pennsylvania? That is a question of very great interest at the present moment. The whole country has a concern in it. *Is this the voice of Pennsylvania?* If this be her voice, then we may hope that the day of relief and of safety is approaching. If this be her voice, it is a voice of help and of rescue. The work of relief will prosper, it will proceed, if her heart be in it, and her strong hand be put to it. Pennsylvania is one of those great central States, on whose determination and on whose conduct every thing in regard to the future condition of the country seems to hang. If this centre moves with intelligence, union, and patriotism, nothing can resist its force. For one, I believe that the sentiments expressed in this memorial are, to a very great extent, the sentiments of Pennsylvania. I believe this is her voice. The proofs, I think, are satisfactory. They come in numerous expressions of opinion, in a thousand forms, from all parts of the State itself; and they may be gathered from the workings of public opinion in other portions of the country. In this hall and the other, I see evidence, if I mistake not, that those who know Pennsylvania best believe her to entertain the opinions expressed in the paper which has now been read, and believe, also, that she will soon show herself in earnest in maintaining them. She has been an ardent friend and a steady supporter of the present chief magistrate. Among the very first to espouse his cause, from warm gratitude for his great services, a strong conviction of his honesty and patriotism, and a confiding trust in his ability to administer the government, she has adhered faithfully to her attachment. Three times she has given him her vote for the Presidency, and she has not faltered in her support heretofore, although there have been measures, touching her vital interests, in which nearly every one of her delegation here, and a vast majority of her own legislature, have been constrained to differ from the President. She has seen and regretted what she thought errors; but she has remembered great services and great exploits, and has gone on with her characteristic steadiness. It is not wonderful that she should be slow and

reluctant in withdrawing confidence where she had bestowed it in such bountiful measure. I would not suggest, that, even now, Pennsylvania abates her personal kindness and regard for the chief magistrate who has been so often the man of her choice. No doubt she would desire to see him go through his career with success and honor; but I believe, Sir, that her citizens perceive the true character and feel the disastrous effects of those measures which the administration has been recently led to adopt, and that they are convinced that it is their duty to oppose those measures by every thing which belongs to their interest and to their character as Pennsylvanians. In all this it is possible I may be deceived. The sentiment of Pennsylvania may be fixed the other way. My hopes, my earnest wishes, may mislead me; but I shall not give up those hopes while it is possible to retain them, because they are intimately connected with all the expectations which I cherish for a return of the prosperity of the country.

Mr. President, the immediate difficulty in our condition is to convince the friends of the administration here, and the President himself, that the country is either dissatisfied or distressed. The pertinacity with which men here cling to this "experiment" exceeds all former experience. They can see no proof of distress, they can hear no sounds of just complaint. They insist that all the excitement which exists in the country is produced by the *bank*, by *panic-makers*, by *party politicians*. All the memorials come, they say, from the President's enemies. If we stand up here to present the petitions of the people, and to press them on the attention of the Senate, we are called panic-makers! If we speak of the multitudes who flock together, at public meetings, to memorialize Congress, we are told they are all bank agents. Farmers, mechanics, laborers, traders, manufacturers, and merchants come here by hundreds of thousands; but we are told they are but a few noisy political partisans. Sir, an end to this delusion must some time come. It cannot last for ever; and if any thing short of an overwhelming defeat at the ballot-boxes will ever convince the supporters of the present measures that the people are against them, they might be, in some degree, satisfied by the character of this convention at Harrisburg, the circumstances attending it, and the result of its proceedings. It was a convention consisting of two hundred

and fifty delegates, coming from forty-four counties out of fifty-two which the State contains. These delegates assembled, Sir, from places some of them three hundred miles apart, at a very busy season of the year, in obedience to the will of their constituents, for the purpose of consulting on the present state of things, and uniting to pray relief from Congress. I have the honor of knowing several of these gentlemen personally, and many others by reputation. The convention was not composed altogether of delegates from any one political party. Various parties, various descriptions of political men, united in its proceedings.

It is known that there exists in Pennsylvania a large, active, and zealous Antimasonic party; and I see, among the members of the meeting, many distinguished names belonging to that party. These gentlemen came to the convention, not to lose their own distinct character, not to give up their own principles of association, but to signify that, in this crisis, and on the great questions which now agitate the whole country, they think as others think, and as Americans ought to think, and that they hold fast to the Constitution and laws.

Sir, I am happy to say, that I know no party or body of citizens in the country, whose principles and opinions, on all its leading interests, are more thoroughly sound and patriotic than those of the Antimasons of Pennsylvania. I know no gentlemen more worthy of trust, in every respect, than those who are placed in the public councils here by their influence and their votes. It is true, that the party has a distinct object of its own, which it keeps constantly in sight, and which it pursues with steadiness and zeal; but it is equally true, that it shows itself always unwavering and steadfast in its attachment to the Constitution, in its maintenance of the authority of law, in its love of liberty, and in its support of the great interests and true policy of the country.

The Whigs, Sir, were also represented in this convention, and it will be seen by its proceedings that they have avowed sentiments and principles worthy of their name. Nor are these all. It appears, also, from the memorial itself, that nearly one third of the whole convention was composed of friends and supporters of the present executive. Seventy-five Jackson men, as they have been called, are on the roll of members. Will not

this striking fact produce its effect on gentlemen here? Will it not cause them to open their eyes to the progress of opinion, and their minds to the force of truth? You will observe, Sir, that this convention did not call itself a *Whig* convention, a *National Republican* convention, nor an *Antimasonic* convention; but it called itself a "convention of delegates from the citizens of Pennsylvania opposed to executive usurpation and abuse." It adopted a name, or used a description, broad enough to comprehend all those who, however they might differ in other things, united in the objects of this meeting. Now, Sir, how is it possible that so numerous and respectable a convention, thus composed of gentlemen belonging to distinct parties and to different political associations, could be brought together, and be found adopting this memorial, with entire unanimity, if there were not some strong conviction common to all, some general and concurring sense of public distress and public danger?

Sir, they have acted wisely and patriotically; they have remembered that they have a common country, a common liberty, and, in times of danger, a common duty. They have felt, that, whatever else they may be, they are yet all Americans, all Pennsylvanians, all lovers of liberty and the Constitution. The administration is deceived, therefore, Sir, the President himself is deceived, greatly, if he supposes this convention to have been assembled by the agency of the bank, by any mere party operation, or by any desire to create panic. Let us look to individuals, let us see who composed the convention, that we may judge the better of the weight due both to its declarations and its opinions.

I perceive, Sir, that there was placed in its chair a WASHINGTON COUNTY FARMER, Joseph Lawrence, a man well known in this Capitol; a man of the simplest republican habits, and the sternest republican virtues; a man who has served his fellow-citizens in distinguished public stations with much credit, and has gone back to the cultivation of his own farm with *real* Roman simplicity. Sir, all the banks in the world, and all the panic-makers and political partisans in the world, could not bring him over the Alleghanies to Harrisburg, there to put his name to a paper containing these sentiments and these statements, unless he fully believed them all to be true.

In the preliminary arrangements of the meeting, and also in

its subsequent proceedings, I observe that General Frick, of Northumberland, acted a conspicuous part. If I have been rightly informed, this gentleman has been a distinguished friend of the present chief magistrate, and has supported him and his measures with ability, both in and out of the legislature of Pennsylvania. Is it panic, is it party spleen, is it ill-will to the President, which brought this highly respectable gentleman, and others like him, to the convention? Certainly it is not. Nobody can believe it is. They were brought thither, and could only be brought thither, by that sense of duty which is stronger than personal preference; by that true love of country which places principles above men. Would they not stand by the President if they could? Popular as he still is, powerful as he is, would they not go on in their support of his measures if insurmountable obstacles were not in the way?

There is another circumstance, Sir, in the character of this convention, worthy of especial notice. Among its members were several who belong to that highly respectable portion of our fellow-citizens, the Society of Friends. With one of them, a member of the committee who brings this memorial to Congress, a most worthy and respectable gentleman, I have the pleasure of some personal acquaintance. He is advancing far into age; and yet he never attended a political meeting in his whole life, until he went, with others of his Society, last week, to Harrisburg. When, Sir, were the Society of Friends found to be political agitators, ambitious partisans, or panic-makers? When have they disturbed the community with false cries of public danger, or joined in any clamor against just, and wise, and constitutional government? Sir, if there be any political fault fairly imputable to the Friends, I think it is rather, if they will allow me to say so, that they are sometimes a little too indifferent about the exercise of their political rights; a little too ready to leave all matters respecting government in the hands of others. Not ambitious, usually, of honor or office, but peaceable and industrious, they desire only the safety of liberty, civil and religious, the security of property, and the protection of honest labor. All they ask of government is, that it be wisely and safely administered. They are not desirous to interfere in its administration. Yet, Sir, a crisis can move them; and they think a crisis now exists. They bow down to nothing human

which raises its head higher than the Constitution, or above the laws.

Such, Sir, is the character, the composition, of this convention. I beseech gentlemen not to deceive either themselves or others, by referring all its proceedings to party influence and bank influence. Depend on it, Sir, it had its origin, and owes its character, to a deep feeling of dissatisfaction with measures of government, a conviction of much public distress, and an honest alarm at executive claims of power. And depend on it, Sir, if these and other admonitions are not taken in time, if nothing be done to quiet apprehension and to relieve the country, the sentiments of this convention will become, and must become, more and more general among the people.

This memorial, Mr. President, declares that the cherished policy of Pennsylvania, consisting of an encouragement of her manufactures, has become impracticable and delusive; that numerous establishments are closed, and others crippled; that the loss of property has been afflicting; and that the suspension of business deprives *labor* of wages and of bread. Is this true? Is this representation fact, or fiction? Have two hundred and fifty gentlemen been sent to Harrisburg, by their friends and neighbors, that they may raise a false cry, put statements upon paper which are not true, and send thirty of their own number to Washington, to impose on Congress with a pretended but false story of distress?

The memorial speaks of Pittsburg. It is now within a few days of twelve months, since, for the first time, I visited that city, so interesting by its position, by its rapid growth, by the character of its inhabitants, and by the history of early occurrences in its neighborhood. It was then all animation, activity, and cheerfulness. If the smoke of numerous factories and workshops somewhat darkened the air and obscured the view of the charming scenery around, it gave evidence, still, that occupations were prosperous, and that *labor* was well paid, and happy in its daily toil. Of thirty thousand inhabitants, it is said two thirds of them owe their means of livelihood to manufactures; and it may be asked, with emphasis, and with alarm, unless activity be restored again to the loom and the forge, what is to become of this amount of human strength and industry, thus thrown out of employment? The memorial goes on to say,

that the great staples of the State are without a market; that many of its mines are nearly or quite abandoned; that the manufactures of iron and cotton have fallen off one third; and the products of the field sell only at reduced prices, when they sell at all. "Turn where we will," it continues, "your memorialists perceive one universal sense of present or impending ruin, depressing the energies and darkening the prospects of the citizen."

Now, Sir, if these statements, put deliberately on paper by this convention, and brought hither by its committee, will not convince the administration and its friends of the fact of dissatisfaction and distress among the people, all effort to produce conviction must fail. We are indeed, I fear, attempting a hopeless task. All fact and all reasoning seem to fall powerless on the unimpressible, impenetrable surface of party opinion. Every blow, however often repeated, rebounds from it as from the face of an anvil. Men have become so committed, they have so far stepped in already, all their hopes are so entirely pledged and staked on the success of this grand "experiment," that any change of purpose appears to be out of the question.

I can only repeat, therefore, Sir, what I have so often said, that I entertain faint hopes of relief, till public opinion shall produce it, by some change of public agents. The authors of this experiment have made up their minds to share its fate, to float with it, if they can keep it above water, and to sink with it, if it must go down. They still cry out that all is well, all is safe, all is prosperous, all is glorious; and argument, experience, the importunity, even the supplications, of the people, have no more influence than the idle wind.

Sir, I am happy to believe, as I do believe, that the citizens of the great State of Pennsylvania are awaking to a just sense of the condition of the country. Since all our fortunes are so much connected with her own; since all that she does, and all that she omits to do, may affect the happiness of every man, not only within her own limits, but in all the other States; it is natural that the whole country should regard her with interest. I doubt not, Sir, she will examine the conduct of government, and take counsel with her own thoughts about the security of the Constitution, and the preservation of the authority of the laws. I doubt not that she will well consider the present, and

look to the future; and if she finds all well, and all safe, if she feels no evil and perceives no danger, she will repose in her accustomed tranquillity. But if she feels that evil, and great evil, does exist, and if she sees that danger is before the country, it is not to be doubted that she will bring to the crisis her intelligence, her patriotism, and her power.

In acquiring the liberty which we enjoy, she had her full share both of the sacrifice and the glory; and she knows that that rich possession is held only on the condition of watchfulness and vigilance. God grants liberty only to those who love it, and are always ready to guard and defend it. In establishing our admirable Constitution, she bore a leading part, and contributed to the counsels which framed it the wisdom of Franklin, and Morris, and Wilson. None can have a deeper stake in the preservation of this Constitution than the citizens of Pennsylvania; and I verily believe that none are more strongly attached to its true principles. It is natural, therefore, that those who think that high principles or great interests are in danger should look to her for succor.

If, as this memorial alleges, the manufacturing industry of the country is depressed and suffering, if it be discouraged, crippled, and threatened with ruin, who shall save it, if Pennsylvania shall not aid in its rescue? Where will it find support, if she abandon it? We have followed her lead in fostering manufactures and sustaining domestic industry, believing this to be a part of her settled policy, interwoven with her system, and that her purposes in regard to it were fixed and settled. I still think so; and therefore I cannot readily believe that she will approve measures which undo all that has been done, or counteract its good effect.

Above all, Sir, I cannot believe that the political doctrines of the times can stand a chance for adoption in Pennsylvania. I cannot believe that men who have been educated in that school, which has been called emphatically the Democratic school, and who hold their political opinions in common with McKean, and Snyder, and William Findlay, will have a relish for the sentiments of the Protest.* When they are asked, Who ought to

* On the 28th of March, 1834, the Senate adopted a resolution declaring that "in the late executive proceedings in relation to the public revenue, the President had assumed a power not conferred by the Constitution and laws, but in dero-

hold the public purse? I think they will not agree with the Protest in their answer. Nor has it ever been taught for doctrine, in the school of which they are disciples, that the executive power is the natural guardian of liberty, and that it is not for the representatives of the people, or the representatives of the States, to question its acts, or to proclaim its encroachments. Sir, Pennsylvania is deeply interested in that in which we are all interested, THE WELFARE OF THE WHOLE; and if she be true to herself, as I trust she will be, she cannot be false to the country.

Mr. President, we are approaching to the end of a long session, and we are likely to leave off where we began. We have done nothing, and I fear we shall do nothing, for the relief of the people. The government has nothing to propose which even its own friends will support. On what does it rely? A proposition is before the other house, which has been represented as the only scheme of the administration. It is a law for keeping the public treasures in the State banks. It was offered here, the other day, as you remember, Sir, by way of amendment to a bill, and was rejected by more than two thirds. It is put to rest here; nor is its sleep elsewhere likely to be disturbed.

The administration will not consent that the deposits be restored; it will not consent to give the present bank time to collect its debts and wind up its affairs without distressing the people; it will not consent to prolong its existence a single day; it will not consent to any new bank; it will not suffer the public money to depart, in any way, from executive control. It sees employment cut off, but it does nothing to restore it; it sees confidence destroyed, but it does nothing to revive it; it sees the revenue diminished, and dwindling, but it does nothing to improve it. And yet it would appear, that the administration is now desirous that Congress should adjourn and go home. For one, I feel that Congress has not done its duty; it has not fulfilled the objects of the session; it has done nothing to relieve the country.

The responsibility, Sir, must rest where it ought to rest; and we must prepare ourselves, as best we may, to account to the

gation of both." On the 17th of April, a Protest against this resolution was sent to the Senate by the President of the United States, with a request that it should "be entered at length on the journals of the Senate."

people for the disappointment of their just hopes, and the disastrous consequences of rash, unlawful, ill-advised measures of government.

Mr. President, I hardly intended, when I rose, to occupy more than a moment of the time of the Senate. I know how many important subjects are upon the table. But this one subject, the general condition of the country, is so superior to all, it is of such overwhelming importance, that every thing else necessarily gives way to it. It has been so through the session; it will be so next session; and it will continue to be so, till the Constitution shall be vindicated, the violated law redressed, the public treasures restored to their proper custody, and general confidence reëstablished. How soon this may be done, it remains with the people themselves to decide; but until it is done, and all done, we shall look in vain, either for an end to distraction in the public councils, or an end to embarrassment and suffering among the people.

REPORT ON THE REMOVAL OF THE DEPOSITS.*

IN Senate of the United States, February 5, 1834, Mr. Webster, from the Committee on Finance, made the following report: —

THE Committee on Finance, to whom has been referred the report of the Secretary of the Treasury of the 3d of December, 1833, on the removal of the public deposits from the Bank of the United States, and a resolution, submitted to the Senate by an honorable member from Kentucky, declaring that the reasons assigned by the Secretary for the removal of the said deposits are unsatisfactory and insufficient, have agreed on the following report: —

THE act incorporating the Bank of the United States, as is justly remarked by the Secretary, is a contract, containing stipulations on the part of the government, and on the part of the corporation, entered into for full and adequate consideration.

The government became party to this contract by granting the charter, and the stockholders by accepting it. "In consideration," says the charter, "of the exclusive privileges and benefits conferred by this act on the said bank, the president and directors thereof shall pay to the United States, out of the corporate funds thereof, one million and five hundred thousand dollars, in three equal payments"; and in another section it declares that, "during the continuance of this act, and whenever required by the Secretary of the Treasury, the said corporation shall give the necessary facilities for transferring the public funds from place to place within the United States or the territories thereof,

* A Report on the Removal of the Deposits, made by Mr. Webster, from the Committee on Finance of the Senate of the United States, on the 5th of February, 1834.

and for distributing the same in payment of the public creditors, without charging commissions or claiming allowance on account of difference of exchange; and shall do and perform the several and respective duties of the commissioners of loans for the several States, or any one or more of them, whenever required by law."

The section immediately following this provision is in these words: "*And be it further enacted*, That the deposits of the money of the United States, in places in which the said bank or branches thereof may be established, shall be made in said bank or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct; in which case the Secretary of the Treasury shall immediately lay before Congress, if in session, and if not, immediately after the commencement of the next session, the reasons for such order or direction."

It is not to be denied or doubted, that this custody of the public deposits was one of the "benefits" conferred on the bank by the charter, in consideration of the money paid and the services undertaken to be performed by the bank to the government; and to this custody the bank has a just right, unless such causes have arisen as may have justified the Secretary in giving an order and direction for changing that custody. Any order, therefore, issued under the provisions of this law, necessarily involves a consideration of the just extent of the Secretary's power and of the rights of the bank.

But Congress, in making this provision, unquestionably had in view the safety of the public funds, and certain important financial objects, as well as the making of a just consideration to the bank for the sum paid and the services undertaken by it; and with this view, also, it has expressed its will that the deposits shall continue to be made in the bank until good cause shall arise for ordering otherwise. Of this good cause, the Secretary of the Treasury in the first instance, and Congress ultimately and conclusively, are constituted the judges. Every order, therefore, of the Secretary for changing the deposits presents for the examination of Congress a question of general political propriety and expediency, as well as a question of right and obligation to the bank.

These questions may be considered together. They are intimately connected; because the right of the bank to retain the

deposits, and to enjoy the advantages to be derived therefrom, cannot be denied, unless a case is shown to have arisen within the just power of removal vested in the Secretary, and which made it his duty to exercise that power. The Secretary is only to remove the deposits for reasons. Of these reasons he is to give an account to Congress. If they be insufficient to justify the removal, the bank has a right to a return of the deposits, and the country has a right also to expect that, in that case, the public treasure will be restored to its former place of safety.

The Secretary having removed the deposits, and having reported his reasons to both houses, the whole subject is now before Congress by way of appeal from his decision; and the question is, whether that decision ought to stand, or ought to be reversed.

The power of the Secretary, under the law, is evidently but provisional. It is a power which he may exercise in the first instance; but the propriety of his conduct, in every instance of its exercise, is ultimately referred to the wisdom of Congress, and by Congress it must be judged. He is authorized to do the act, but Congress is to examine it when done, and to confirm or reverse it. The Secretary may change the deposits; but, when changed, Congress is to decide on the causes of such change, with authority either to sanction the removal, or to restore the deposits, according to its own judgment of right and expediency.

In order to decide whether the act of the Secretary ought to be confirmed, it is requisite, in the first place, to form a just opinion of the true extent of his power under the law; and, in the second place, to consider the validity of the reasons which he has specially assigned for the exercise of that power in the present case.

The opinion of the Secretary is, that his power over the deposits, so far as respects the rights of the bank, is not limited to any particular contingencies, but is absolute and unconditional. If it be absolute and unconditional so far as respects the rights of the bank, it must be absolute and unconditional in all other respects; because it is obvious, if there be any limitation, that such limitation is imposed as much for the benefit of the bank as for the security of the country. The bank has contracted for the keeping of the public moneys, and paid for it as for a privi-

lege or benefit. It has agreed, at the same time, that the Secretary shall possess the power of removal; but then it is also agreed, that, whenever this power is exercised, the reasons therefor shall be reported to Congress; Congress being thus constituted the final judge, as well of the rights of the bank in this particular, as of the good of the country. So that, if the Secretary's power be in truth absolute and unconditional, it restrains Congress from judging whether the public good is injured by the removal, just as much as it restrains it from judging whether the rights of the bank are injured by the removal; because the limitation, if any, is equally for the security of the bank and of the public.

If the bank be interested in retaining the deposits, then it is interested in the truth or falsity, in the sufficiency or insufficiency, of the reasons given for their removal. Especially is it so interested, since these reasons are to be rendered to a tribunal which is to judge over the Secretary, and may form a different opinion on the validity of these reasons, and may reverse his decision. It clearly has an interest in retaining the deposits, and therefore is as clearly concerned in the reasons which the Secretary may give for their removal. And as he is bound to give reasons, this very circumstance shows that his authority is not absolute and unconditional; for how can an appeal be given from the decision of an absolute power? and how can such a power be called on to give reasons for any instance of its exercise? If it be absolute, its only reason is a reference to its own will.

The committee think, therefore, that no absolute and unconditional power was conferred on the Secretary; that no authority was given him by which he could deprive the bank of the custody of the public moneys, without reason; and that therefore his opinion is not to be admitted; that in no event can any order for removing the deposits impair the right secured to the bank by the charter. If removed without good cause, the committee think the removal does impair the rights of the bank.

But the opinion of the Secretary, as to his own powers, is hardly more limited in respect to the government and the country, than in regard to the rights of the bank. His opinion is, that it is his duty, and within his authority, in this view, also, to withdraw the deposits of the public money from the bank whenever such a change would, in any degree, promote the public

interest. "The safety of the deposits," he says, "the ability of the bank to meet its engagements, its fidelity in the performance of its obligations, are only a part of the considerations by which his judgment must be guided. The general interest and convenience of the people must regulate his conduct."

By the general interest and convenience of the people, the Secretary can only mean his own sense of that interest and convenience, because they are no otherwise to be ascertained than by his own judgment. His construction of the law is, therefore, that he has power to remove the deposits whenever, for any reason, he thinks the public good requires it. In this interpretation of the design and object of the law, and this broad construction of the Secretary's power, the committee do not concur. Although the power of the Secretary is not restricted by any express words or terms, nor by any particular occasions for its exercise specifically and expressly designated or prescribed by the law, yet it is not to be admitted, as the committee think, that this power is to be exercised capriciously, or in an arbitrary manner, or for loose or conjectural reasons, or on any idea of an unlimited discretion vested in the Secretary to judge on the general question of the public welfare; or, indeed, on any other grounds than those of necessity, or plain and manifest expediency, directly connected with the subject over which the power exists.

The keeping of the public money is not a matter which is left, or was intended to be left, at the will of the Secretary, or any other officer of the government. This public money has a place fixed by law, and settled by contract; and this place is the Bank of the United States. In this place it is to remain until some event occur requiring its removal. To remove it, therefore, from this place, without the occurrence of just cause, is to thwart the end and design of the law, defeat the will of Congress, and violate the contract into which the government has solemnly entered.

It is fit to be observed, that no other law confers on the Secretary such a wide discretion over the public interests in regard to any subject, or gives him a power to act on the rights of others, or on the rights of the public, in any part of his official duties, with so unlimited an authority as is here asserted. Everywhere else he appears in the character of a limited and restricted

agent. He is the financial officer of the government; he is the head of the Department of the Treasury. His duty is, to report annually to Congress the state of the finances, and to communicate to either house, when requested, any information respecting the treasury; and he is to superintend the collection of the revenue. But he has no authority over the circulating medium of the country, either metallic or paper; nor has he the control of the national currency. It is no part of his duty either to contract or expand the circulation of bank paper, nor in any other way to exercise a general superintendence over the money system of the country. These general interests of the government and the people are not confided to his hands by any of the laws which created his office, and have prescribed his duties; and the committee are of opinion, that the charter of the bank no more intended to give such a wide scope to the Secretary in regard to the deposits, than other laws intended to give him the same wide scope in respect to other duties of his office. No intimation of such intention is found either in the charter itself, or in any of the legislative debates which took place in both houses when the bank was established, or in the discussions which have been had on the various occasions which have been more recently presented for calling forth the sentiment of Congress. In none of these sources is there to be found any proof that the legislature has delegated, or intended to delegate, this extraordinary power of judging of the general interest of the people to the Secretary of the Treasury. Such a power, did he possess it, would necessarily make him the general superintendent of all the proceedings of the bank; because it would enable him to compel the bank to conform all its operations to his pleasure, under penalty of suffering a removal of the public moneys. This would be little less than placing all the substantial power of managing the bank in his hands. But he is not by law its manager, nor one of its managers; nor has he any right, in any form, to interfere in its management. On the contrary, the very language of the charter rejects all idea of such general supervision over its concerns by him, or any other officer of government. That language is, that, "*for the management of the affairs of the corporation*, there shall be twenty-five directors annually chosen", and, under the restrictions contained in the charter, these directors are intrusted with the whole general business of the bank,

subject, of course, to all the provisions of the charter and the by-laws; subject, too, always to the inspection and examination of either house of Congress; subject always to regular inquiry and trial; and bound always to communicate to the head of the treasury department, on request, statements of its amount of stock, debts due, moneys deposited, notes in circulation, and specie on hand.

Under these restrictions, the establishment of its offices, and the appointment of its officers; the amount of its discounts, and every thing respecting those discounts; its purchases and sales of exchange, and all other concerns of the institution, are to be conducted and managed by the directors. There is nothing in the charter giving the slightest authority to the Secretary to decide, as between the bank on the one hand, and the government or the people on the other, whether the general management of the directors is wise or unwise; or whether, in regard to matters not connected with the deposits, it has or has not violated the conditions of its charter. The statement which the bank is bound to make to the Secretary, he may lay before Congress; and he is doubtless bound by his official duty to communicate to Congress any other information in his possession, tending, in his judgment, to show that the bank has disregarded its charter, or failed to fulfil all or any of its duties; but here his authority, so far as it regards the general course and operation of the bank, ends. It is then for Congress to act, if it see occasion, and to adopt the regular remedies for any evils which it may suppose to exist. But it transcends the power of Congress itself to pronounce the charter violated, without hearing, without trial, without judgment; far less is any such power of pronouncing final judgment confided to the Secretary. His power simply is, that, in regard to the deposits of the public money, he is to judge, in the first instance, whether just cause has arisen for their removal.

The Secretary seems to suppose, indeed the very basis of his argument assumes, that the law has confided to him a general guardianship over the public welfare, so far as that welfare is in any way connected with the bank, or liable to be affected by its proceedings; and that he holds the power of removing the deposits as the means or instrument by which he is to enforce his own opinions respecting that welfare. The committee do not

adopt this opinion. They think that, if such had been the design of the law, its provisions would have been very different from those which it does actually contain.

If such general guardianship had been intended to be conferred on the Secretary, it is reasonable to believe that he would have been vested with powers more suitable to such a high trust. If he had been made, or intended to be made, general inspector or superintendent, other authority than merely that of removing the deposits would have been given him; for this plain reason, that the government and the country have interests of much magnitude connected with the bank, besides the deposits of the public moneys in its vaults; and to which interests, if endangered, the removal of the deposits would bring no security.

The government is proprietor of seven millions of the stock of the bank; and yet no authority is given to the Secretary to sell this stock under any circumstances whatever, or in any other way to interfere with it. The bills and notes of the bank are made receivable in all payments to the United States, until Congress shall otherwise order; and no power is given to the Secretary to prevent their being so received, either during the session of Congress or in its recess, however the credit of these bills and notes might become depreciated. How is it possible to conceive that, if Congress intended to give to the Secretary a general right to judge of the operations and proceedings of the bank, and a power, of course, to declare when it had violated its duty, and was no longer trustworthy, it should yet leave him under an absolute obligation to receive its bills and notes in all payments to the treasury, though they might have lost all credit, and place no means in his hands to execute his high authority of superintendent, except the mere power of removing the deposits of the public money?

Wherever it is clear that Congress has given the Secretary a power, it has given him the means of informing his judgment as to the propriety of exercising that power. He has power to remove the deposits; and ample means are afforded him by which he may learn, from time to time, whether those deposits are safe. For this purpose, it is expressly made the duty of the bank to furnish him, as often as he shall require, if not oftener than once a week, with statements of the amount of the capital

stock of the corporation, of the debts due to it, of the moneys deposited in it, of its notes in circulation, and specie on hand; and he has a right to inspect the general accounts in the books of the bank relating to this statement. This statement enables him to judge of the solvency and stability of the bank, and of the safety of the public money deposited in it. Here, then, is a power, and all appropriate means given for the just and enlightened exercise of that power. Confined to the deposits, the power is accompanied with all rational auxiliaries and attendants.

But for the depreciation of the bills of the bank, should that happen, and for other cases of maladministration, Congress has provided just and appropriate remedies, to be applied by itself or others, in exclusion of the Secretary. For redress of these evils, no power is given to him. For the security of the public interest, the law reserves a right to either house of Congress to inquire, at all times, into the proceedings of the bank; and if, on such inquiry, it appears in any respect to have violated its charter, Congress may bring it to trial and judgment. Power is given to the President, also, to institute judicial proceedings, if he shall have reason to believe that any such violation has taken place. But no such power is given to the Secretary.

The proposition, then, cannot be maintained, that Congress has relied, for the security of the public interests and the preservation of the general welfare, so far as it is connected with the bank, on a general discretion reposed in the Secretary, for two reasons; — first, because it has not given him the appropriate powers of remedy in the most important instances; and secondly, because it has in those instances either expressly reserved those powers to itself, or expressly conferred them on the President.

If the Secretary cannot prevent the notes of the bank from being received at the custom-houses and the land-offices, even after they should be discredited; if he have no power to touch, in any way, the seven millions of stock belonging to the government; if the power of examination into the proceedings of the bank be given, not to him, but to either house of Congress; if he have no power, but Congress and the President each has power, to direct a legal investigation into the conduct of the bank, — how can it possibly be maintained that a general in-

spection and guardianship over the public welfare, so far as it is connected with the bank, is confided to him; and that his authority to remove the deposits was given, not to protect the deposits themselves, and secure their proper use, but to enable him to enforce upon the bank, under penalty of their removal, such a course of management as his sense of the public interest and of the convenience of the people may require? Such a construction would give a strange and an undeserved character to the provisions of the law by which the bank was created. It would convert the power of removal, intended for remedy and redress, into a mere instrument of punishment; and it would authorize the infliction of that punishment, without hearing or trial, in the very cases in which the law yet says, that, if violation of duty be charged, the charge shall be heard and tried before judgment is pronounced; and the duty of preferring this charge, and of prosecuting it to judgment, is given, not to the Secretary, but to Congress and to the President.

The contingent power given to the Secretary to remove the deposits evidently shows that Congress contemplated the possibility that some sudden evil might happen, for which either no other remedy was provided, or none which could be applied with sufficient promptitude; and for which evil, removal would be a just and appropriate remedy. The remedy prescribed, then, teaches us the nature of the evils which were apprehended. We can readily understand that threatened danger to the funds was one, and probably the chief, of those evils; because change into other hands is the ready and appropriate measure which would rationally suggest itself to all minds as the proper security against such danger; and change is the remedy actually prescribed. Neglect to transfer the deposits from one place to another, as the exigencies of government might require, and thereby to furnish those facilities of exchange which the charter demands of the bank without commission and without charge, is another evil, for which, should it happen, the remedy would naturally be the withdrawing of the funds and the placing of them in their former custody, so that they could be transferred or exchanged by the treasury itself.

But who can see any connection or relation, such as ordinarily exists between an evil apprehended and a remedy proposed, between such an evil as a supposed over-discount, for instance,

by the bank at one time, or an under-discount at another, and the abrupt removal of all the public deposits? And if no one can see the connection, how can it be supposed that, in giving the power of removal as a remedy, Congress had in view any such evil?

A question may arise between the government and the bank respecting the right of the parties to the sum of one hundred and fifty thousand dollars, as in the case of the French bill. It is a question on which different opinions may be entertained, and which is, in its nature, fit for judicial decision. Does any man imagine that such a case as this was in the eye of Congress when they granted the power of withdrawing the whole public treasure from the bank? Can it be for one moment maintained, that Congress intended that, in such a case, the Secretary should compel the bank to adopt his own opinion, by the exercise of a power, the very exertion of which deranges the currency, interferes with the industry of the people, and, under some circumstances, would hazard the safety of the whole revenue?

The committee think it cannot admit of rational doubt, that, if Congress had intended to give to the Secretary any power whatever not directly touching the deposits themselves, not only would it have specially pointed out the cases, but it would also, most assuredly, have provided a remedy more suitable for each case. The nature of the remedy, therefore, which is prescribed, clearly shows the evils intended to be provided against.

To admit that the Secretary's conduct is subject to no control but his own opinion of the general interest and convenience of the people, is to acknowledge the existence, in his hands, of a discretion so broad and unlimited, that its consequences can be no less than to subject, not only all the operations of the bank and its offices, but its powers and capacities, perhaps its very existence, to his individual will. He is of opinion that the law creating it is, in many of its provisions, unconstitutional; he may not unnaturally, therefore, esteem it to be his duty to restrain and obstruct, to the utmost of his power, the operation of those provisions thus deemed by him to be unconstitutional. He is of opinion that the existence of such a powerful moneyed monopoly is dangerous to the liberties of the people. It would result from this, that if, in the discharge of his official duty, he is

to follow no guide but his own sense of the interest of the people, he might feel bound to counteract the operations of this dangerous monopoly, diminish its circulation, curtail its means, and prejudice its credit. To accomplish these very purposes, and these alone, he might withdraw the deposits. The power given him by Congress would thus be used to defeat the will of Congress in one of its most important acts, by discrediting, and otherwise injuriously affecting, an institution which Congress has seen fit to establish, and which it has declared shall continue, with all its powers, to the expiration of its charter.

The power conferred on the Secretary is a trust power, and, like other trust powers, in the absence of express terms setting forth the occasions for its exercise, it is to be construed according to the subject and object of the trust. As in other cases of the deposit of moneys in banks, the primary object sought to be accomplished by Congress, by that provision of the charter now under consideration, is the safe-keeping of the money. The Secretary's trust, therefore, primarily and principally respects this safe-keeping. But another object is distinctly disclosed in the charter, which object is intimately connected with the fund; and that is its transfer and exchange from place to place, as the convenience of government might require. The Secretary's trust, therefore, respects also this other object, thus connected with the fund; and when either of these objects requires a removal, a removal becomes a just exercise of his authority. To this extent, none can doubt the existence of his power. If in truth the money is believed to be unsafe, if in truth the bank will not grant the facilities which it has promised, in consideration of receiving and holding the fund, then certainly it ought to be removed. But here the power must stop, or else it is altogether unbounded. Here is a just and reasonable limit, consistent with the character of the power, consistent with the general duties of the Secretary, and consistent with the nature of the remedy provided.

The charter of the bank is the law; it is the expressed will of the legislature. That will is that the bank shall exist, with all its powers, to the end of its term. That will, too, as the committee think, is, that the public deposits shall continue in the bank so long as they are safe, and so long as the bank fulfils all its duty in regard to them. The Secretary assumes a

broader ground. He claims a right to judge of the proceedings of the bank on all subjects. Admitting the fund to be safe, and admitting that the bank has performed all its duties in regard to it, he claims an authority, nevertheless, to remove the deposits whenever he shall form an opinion, founded on the conduct of the bank in any particular whatever, and however unconnected with the public moneys, that the general interest of the people requires such removal. If, in his opinion, it discounts too little, or discounts too much, if it expands or contracts its circulation too fast or too slowly, if its committees are not properly organized, if it claims damages on protested bills which it ought not to claim, if, in his opinion still, it is guilty of a wrongful meddling in politics, or if it do any thing else not consistent with his sense of the public interest, he has a right to visit it with a withdrawal of the public money from its custody. If this claim of power be admitted, it would seem to the committee to be a fair result that the Secretary has power to withdraw the deposits for no other reason than that he differs with Congress upon its constitutional authority to create any bank, or upon the constitutionality of this particular bank, or upon the utility of continuing it in the exercise of its chartered powers and privileges till its term shall expire.

The committee, therefore, are of opinion, that it was not the intention of the legislature to give to the Secretary of the Treasury a general guardianship over the public interests in all matters connected with the bank; but that his power is a limited one, and is confined to the safety and the proper management of that portion of the public interests to which it expressly relates; that is to say, to the public moneys in deposit in the bank.

But the extent of the Secretary's discretion, as asserted by himself, reaches even farther than the wide range which the committee have here described. It is not confined to the protection of all the various interests which the government and the country have in the bank, or to a supervision and control over all the conduct of the bank; but it embraces all branches of the public interest, and touches every thing which in any way respects the good of the people. He supposes himself rightfully to possess the power of removing the deposits, whenever any causes, springing up in any part of the whole wide field of the general

interest, may appear to him to call for such removal. Notwithstanding he may suppose all the great interests confided to the bank to be perfectly safe, notwithstanding he may have no occasion to complain of any part of its conduct, notwithstanding, even, it may so have demeaned itself as to have become the object of his favor and regard, yet, if his construction be admitted, he may remove the deposits simply because he may be of opinion that he might place them, with a prospect of still greater advantage, in other hands. If he be of opinion that the commerce of the country or its manufactures would be benefited by withdrawing the public money from one bank and placing it in many, that would be an exercise of authority entirely within the limits which he prescribes to himself. It would be a case in which he would only follow his own sense of what the general interest and convenience of the people required. He might think, too, that, by withdrawing all the public treasure from the Bank of the United States, and placing it in the hands of twenty or thirty State banks, to remain there during his pleasure, and to be drawn thence, again, at his will, he might be enabled effectually to advance certain other objects, which, whatever others might think of them, he might consider to be essential to the good of the people. All this, if his doctrine be right, is within his just authority. A power necessarily running to this extent is a power, in the opinion of the committee, which can never be admitted.

Having thus expressed an opinion upon the general extent of the power claimed by the Secretary, the committee proceed to consider the reasons which he has reported to Congress as the particular grounds on which the power has been exercised in the present case.

The first reason assigned by the Secretary is the near approach of the period when the bank charter will expire. That period is the 4th of March, 1836, more than two years distant; nearly two years and a half at the time of the removal. Three sessions of Congress are, in the mean time, to be held; and inasmuch as the Secretary himself says that "the power over the place of the deposits for the public money would seem properly to belong to the legislative department of government," the committee think it might reasonably have been expected by him that Congress would not fail to make, in season, suitable regu-

lations on a subject thus admitted to be within the just exercise of its authority, and properly one of its duties.

Why, then, should he not have waited till Congress had seen fit to act upon the subject, or had manifested a disposition not to act? The matter of the deposits had been before Congress last session; and Congress had then thought no provision to be, as yet, necessary. Its undoubted sense was, that the public moneys should remain where they were. This was manifested by proofs too clear to be questioned. Another session was fast approaching; and why was not the whole subject left where Congress had chosen to leave it at the end of its last session, to await the free exercise of its legislative power at this session? It might have been fit for the executive to call the attention of Congress, at this time, to the necessity of some legal provisions respecting the future custody of the public moneys; and it would, doubtless, have been proper for Congress, without such call, to take up and consider the subject of its own accord; but the committee see no reason whatever, in the approaching expiration of the charter, for a change so sudden, and producing such important effects, made so long before that expiration, at a time when Congress had recently had the subject before it, and when, too, it was again about to assemble, and would naturally have reasonable and full opportunity to adopt any necessary legislative provisions. The Secretary has stated no reason satisfactory to the committee for not deferring this important step until the meeting of Congress. He sets forth no emergency, no sudden occasion, nothing which, in their judgment, made immediate action by him necessary.

The Secretary supposes it to have been his duty to act on the belief that the bank charter would not be renewed; and he refers to recent popular elections in support of this opinion. The committee believe it altogether unusual to assign such reasons for public and official acts. On such subjects, opinions may be very various. Different and opposite conclusions may be drawn from the same facts by different persons. One man may think that a candidate has been elected on account of his opposition to the bank; another may see only that he has been chosen notwithstanding such opposition. One may regard the opposition, or the support of any measure, by a particular candidate, as having been itself a promoting cause of the

success of his election; another may esteem it as a formidable objection, overcome, however, by more powerful reasons; and others, again, may be of opinion that it produced little or no effect on the one side or the other. But if inferences less uncertain could be drawn from such occurrences, the committee still think, that for a public officer to presume what law the legislature will or will not pass, respecting matters of finance, from the election of a particular person to the chief magistracy, implies a consequence from such election which the constitutional independence and dignity of the legislature will not allow to be admitted.

But if, for this or other reasons, the Secretary had persuaded himself that the charter of the bank would not be renewed, still it certainly did not follow that the deposits ought to be removed before Congress had decided on the hands into which they should be transferred, and had made suitable regulation respecting their future custody. If there were good ground for thinking that Congress would not recharter the bank, for that very reason there was equally good ground for supposing that it would make proper and seasonable provision for the keeping of the public moneys elsewhere. How could the Secretary doubt that Congress would omit to do that which he avers to be one of its appropriate duties? The question is, not what measures Congress might be expected to adopt, such as the extension or renewal of the charter of the bank; but whether it ought not to have been presumed that it would adopt some measure, and that a seasonable and proper one, according to its power and its duties; and whether, therefore, this anticipation of the action of Congress, on the eve of its session, is to be justified. The bank charter declares that the deposits of the public money shall be made in the bank and its offices, and that the bank shall continue till March, 1836. Where does the Secretary find his power to decide that the deposits shall be so made but for seventeen years from the date of the charter, instead of twenty? If he may thus withdraw the deposits two or three years before the expiration of the charter, what should restrain him from exercising the same authority five years before its expiration, or ten years? A plain and cogent necessity, the existence of a case which admits of no reasonable doubt, and which is too urgent for delay till Congress can provide for it, could

alone justify an interference with the public moneys, lodged in the bank by law, for the double purpose of safe-keeping and fulfilment of solemn contract.

But supposing it not reasonable for the Secretary to have expected the interposition of Congress, and admitting that he might consider the withdrawal of the deposits as an act which was to be done, at some time, by himself, how can it, nevertheless, be argued, that so early and so sudden a withdrawal was necessary? The committee can perceive no possible reason for this in any state of facts made known to them. The withdrawal of the money, left on deposit, from a bank whose charter is about to expire, is naturally one of the things longest postponed. It is as safe the last day of the existence of the bank, in common cases, as at any previous period. The bank expects the recall of its deposits near the period of its expiration, and prepares itself accordingly. The operation, if made gradually, produces the least possible disturbance in the business of the community.

Former experience would seem to have held out a salutary light for the guidance of the Secretary, in this part of his official duty. At the time of the expiration of the charter of the former bank, Mr. Gallatin was Secretary of the Treasury, and the public deposits were in the bank. The charter of the bank was to end on the 4th of March, 1811; and it does not appear that Mr. Gallatin thought it necessary to make any provision whatever for removing any part of the deposits, except by drawing on them for the common uses of government, until late in the very month preceding the expiration of the charter. A large amount of those deposits remained, indeed, in the vaults of the bank after the charter had expired, and until they were wanted in the general operations of the treasury. And why should it be otherwise? Why should that be done suddenly now, which the Secretary thinks could not be done suddenly hereafter, without great inconvenience? Is it not the just inference from his own argument, that the thing should not have been done suddenly at all? As to the idea that the credit of the paper of the bank will be depreciated near the time of the expiration of its charter, or that it would be inconvenient for it, at that time, to be called on for the deposits, the committee are utterly at a loss to see the slightest foundation for such an opinion. Experience

is against it; and all reason, as the committee think, is against it also. There is nothing to render it in any degree doubtful that the bills of the bank will be in as good credit the last day of its charter, and even after that time, if any shall be outstanding, as they are now; and there is as little to render it doubtful that then, as now, the bank would be competent to answer all demands upon it. In the opinion of the committee, the withdrawal of the public funds was both unnecessarily early and unnecessarily sudden. It might have been made gradually, it might have been deferred; and it might have been, and ought to have been, as the committee think, not ventured upon at all, until the attention of Congress itself had been called to the subject. The committee, therefore, entirely dissent from this first reason reported by the Secretary. They see nothing which proves to them the existence of the slightest occasion for taking this important step at the moment it was taken. So far as it depends on this reason, the committee think the removal was made without necessity, without caution or preparation, with a suddenness naturally producing mischievous consequences, and in unjustifiable anticipation of the legislation of Congress.

But the Secretary thinks there are other reasons for the removal, growing out of the manner in which the affairs of the bank have been managed, and its money applied, which would have made it his duty to withdraw the deposits at any period of the charter.

Of these reasons, arising from the alleged misconduct of the bank, the first is, that many important money transactions of the bank, instead of being managed by a board of seven directors, are placed under the control of a committee of exchange, of which committee no one of the public directors, as they are called, is allowed to be a member.

This charge consists of two parts; first, that the discounts of bills are made by a committee, and not by a quorum of the board; second, that the public directors are not allowed to be of this committee.

It is not alleged that, in the discounts of bills by this committee, any indiscretion has been committed, or any loss incurred, or that, in consequence thereof, any facility to the mercantile community has been withheld, or any duty of the bank to the government violated. The objection is, simply, that bills are dis-

counted by a committee. Supposing this to be an irregularity, or illegality, in the proceedings of the board, how is it to be corrected by withdrawing the deposits? What connection is there between the two things? It is not pretended that this mode of discounting bills endangered the deposits; it is not pretended that it made the bank either less able or less willing to perform every one of its duties to government. How should the withdrawal of the deposits, then, be suggested by the discovery of such an irregularity, real or supposed? The committee are not able to perceive the least propriety in applying the power of removal to a proceeding of this kind, even if it were admitted to be irregular or illegal. But is the practice illegal? It is believed to be not at all unusual. It is believed to be quite common, in banks of large business, for bills of exchange, which are presented every day, and almost every hour in the day, to be discounted either by a committee of the directors, or by the president, or even other officers, acting under such general orders and instructions as the directors, at their stated meetings, prescribe. A large board of directors cannot assemble every day, perhaps not oftener than twice a week. If bills of exchange could only be discounted at these periodical meetings, the business of exchange could not go on with the promptitude and despatch so important to commercial men in such transactions. The committee suppose the truth of these remarks will be at once admitted by all who have knowledge of business of this kind.

The general management and control, the authority of examining and supervising, of contracting or enlarging the amount of daily discounts, according to the state of the bank, and of giving every other order and direction on the subject, still remains with the directors, and is constantly exercised by them. They still manage the affairs of the bank, in the language of the charter, although they may depute to a committee the authority of inquiring and deciding upon the credit of persons whose names are on bills of exchange offered for discount, and on the rate of exchange current at the day. The legal question would be, whether the directors, by rule or by law, may not authorize a small number of their own board to discount bills. The bank has been advised that it might rightfully do this; and if it be not clear that this opinion is right, it is certainly far from clear that it is wrong; and in this state of the question, the general

practice of other banks, under similar provisions in their charters, may well relieve the directors from the imputation of intentional mismanagement.

If, in all this, the bank has violated its charter, what other banks of extensive business have not done the same thing?

But the other subject of complaint, and that which seems to be regarded as the more offensive part of this regulation, is, that the public directors, as they are called, have not been allowed to be on this committee.

It may be observed, in the first place, that, if the discounting of bills of exchange by a committee, instead of the whole board of directors, be illegal, it would hardly be rendered legal by placing any or all of these public directors on the committee as members. But the Secretary seems to suppose that there was some particular object in this exclusion of these directors, as if there had been something wrong to be done, and therefore secrets to be kept, by this committee. It is not easy to see what foundation there can be for this opinion. All those discounts are matter of record. They appear every day in the books of the bank. Every director, on or off the committee, sees them, or may see them, at pleasure. There is no secrecy, nor any motive for secrecy, so far as this committee can perceive. Very proper causes may have existed, for aught that can be known by the Senate, for the omission of these particular directors from this particular committee. Their services might have been deemed more useful in other committees; or, however respectable in general character, or however useful in other parts of the direction, they may have been esteemed not so well acquainted as others with the business of foreign or domestic exchange. And even if there were, or are, other causes for the omission, such as are less consistent with the existence of that harmony and mutual respect which it is so desirable should prevail in such a board, these causes cannot furnish any just ground for asserting, either that the business of exchange was illegally conducted, or that the constitution of the committee was proof of the existence of any motive not fit to be avowed.

But the Secretary entertains an opinion respecting the character and duties of the directors appointed by the President and Senate, in which the committee do not concur. He denominates them "public directors," and "officers of the government."

By the charter of the bank there are to be twenty-five directors. Of these, twenty are to be chosen by the individual stockholders, and five appointed by the President, with the advice and consent of the Senate. As the government owned one fifth of the stock of the bank, it was judged expedient to place in the hands of the President and Senate the appointment of one fifth of all the directors. But they are not called public directors, nor officers of the government, nor public agents; nor are they entitled, so far as the committee can perceive, to either of these appellations, any more than the other directors. The whole twenty-five directors are joint managers of a joint fund, each possessing precisely the same powers and charged with the same duties as every other. They derive their appointments, it is true, from different sources, but when appointed, their authority is the same. There is not one word in the charter intimating, in the remotest manner, that the five directors appointed by the President and Senate have any particular duty, or are the objects of any peculiar trust. The charter calls them, not government directors, not public directors, but simply the directors appointed by the President and Senate. They are placed in the direction to consult with the other directors for the common good of the bank, and to act with these others, and vote with them on all questions. They are, what the law calls them, directors of the bank, not agents of the government. They are joint trustees with others in a joint interest. If any thing illegal or improper takes place in the board, they are bound to resist it by the duty which they owe the individual stockholders, as much as by the duty they owe the government; because they are agents of the individual stockholders, and have the same authority to bind them by their acts as to bind the government. In like manner, it is the duty of those directors who are appointed by the individual stockholders to give notice, as well to government as to the stockholders, if any thing illegal takes place or is threatened. All those directors act and vote together, on the smallest as well as on the highest occasions, and, by their joint votes, bind the corporation, and bind both the government and individual stockholders to the extent of their respective interests in the corporation.

If the directors appointed by the President and Senate had been excluded by the charter from any part of the power exer-

cised by the others; if it had been forbidden them to interfere, to the same extent and with the same effect, as the rest, in the common business of the bank, there might be some reason for supposing that an uncommon character, a character not so much of coöperation as of supervision and inspection, was intended to be conferred on them. But they do interfere, and justly, in all transactions of the bank. They do vote and act on all subjects like the other directors. Being, then, possessed of this common character of directors, and enjoying all its powers to the fullest extent, the committee know no form of argument by which an uncommon and extraordinary character is to be raised by construction, and superadded to the common character of directors which thus already belongs to them.

By granting the charter, and by accepting it, the government, on the one hand, and the individual stockholders, on the other, have agreed, that, of the directors, as joint agents of all parties, the stockholders shall appoint twenty and the government five. The interest of all parties is confided to this joint agency; and any distinction in their powers, as arising from their different modes of appointment, is, in the judgment of the committee, not to be sustained. They regard such distinction as entirely inconsistent with the nature of the agency created, and as deriving not the least countenance from any thing contained in the law. The committee, nevertheless, to avoid misapprehension, wish to repeat, that it is undoubtedly the duty of the directors appointed by the President, and of all other directors, to give notice, both to government and the stockholders, of any violation of the charter committed or threatened.

The Secretary of the Treasury has thought proper to observe that the measures of the committee of exchange are, as it appears, designedly, and by system, so arranged as to conceal from the officers of the government transactions in which the public are deeply involved. This, it must be admitted, is a very serious charge. It imputes a corrupt motive. The committee have sought for the foundation, either in evidence or argument, on which this charge rests. They have found neither. They find only the charge, in the first place; and then they find the charge immediately stated as a fact, and relied on as the basis of other charges.

The second reason for the removal specially assigned by the

Secretary as arising from the conduct of the bank, respects the bill of exchange drawn by the Secretary of the Treasury on the government of France, and purchased by the bank.

The general facts connected with this case are these:—

By the late treaty of indemnity between the United States and France, it was stipulated that the French government should pay to that of the United States twenty-five millions of francs, to be distributed among those American citizens who had claims against France for the unlawful seizure, capture, and condemnation of their vessels and property; the whole sum to be paid in annual instalments of four million one hundred and sixty-six thousand six hundred and sixty-six francs each, into the hands of such persons as should be authorized by the government of the United States to receive it; the first instalment to be paid at the expiration of one year from the exchange of the ratifications.

On the expiration of the year, the Secretary drew a bill of exchange, signed by himself as Secretary, on the French government, for the amount of this instalment, and sold it to the bank, like any other bill of exchange, and received the proceeds by credit of the amount to the account of the Treasurer in the bank.

On the presentment of this bill at the French treasury, payment was refused; the bill was accordingly duly protested, and it was taken up by a third person for account of the bank. The damages accruing on this bill, according to law and constant usage in such cases, are one hundred and fifty-eight thousand dollars. If this bill had been transferred by the bank, as probably it was, the bank itself would have been answerable for damages, even at a higher rate, if a third person had not taken up the bill for the honor of the bank. On receiving information of the protest of the bill, the officers of the bank, as was their duty, gave immediate notice to the treasury department, and accompanied that notice with the information, always given in such cases, that the drawers of the bill would be held answerable for the damages. Such is the substance of the facts in this case.

The bank, it would appear, was willing to collect the bill on account of government, and to credit the treasury with the proceeds when received, a course of proceeding which had this to recommend it, that the money to be paid on the bill was to be received by the government simply in trust for claimants under

the French treaty, and was not ultimately destined to the ordinary uses of the treasury. On the contrary, indeed before the dishonor of the bill was known, it had been made already the legal duty of the Secretary to place the fund, so soon as received, at interest, for the benefit of the claimants.

But it was thought best to sell the bill, and to realize at once its amount into the treasury; and the bill was sold to the bank in preference to others offering to purchase, for no reason, it is to be presumed, except that the terms of the bank were more satisfactory. The bill was thus purchased by the bank, and its proceeds credited to the treasury. This was a mere transaction of the purchase and sale of a bill of exchange. There was no trust confided to the bank, and no fiscal agency in the whole matter. Indeed, the agency of the bank had been declined, the Secretary preferring to deal with it, not as an agent, but as a purchaser, proposing to it not to collect the bill, but to buy it. On being remitted to Europe, and presented for payment, the bill was protested. By the universal commercial law, the government, on the occurrence of this protest, became amenable to the bank for the amount of the bill, with damages. These damages may be ultimately claimed, with justice, from the French government, if the bill was drawn upon sufficient grounds, and on proper authority; in other words, if the obligation of the French government was such, that it was bound to accept and pay the bill. But unless there be something in the case to vary the general rule, which the committee do not perceive, these damages were part of the debt which had become due to the bank, as much as the principal sum of the bill. If this be so, how could the directors relinquish this part of the debt any more than the other? They are agents for the corporation; they act as trustees, and have no authority, without consideration, to release either to the government or to individuals debts due or properly belonging to the corporation.

It has been suggested, that the bank should have taken up this bill when protested, on government account. Two answers may be given to this suggestion. The first is, that the bill had been taken up by a correspondent abroad, for account of the bank, before it was known in the United States that it had been protested. The second is, that it would have been unlawful for the bank to advance such amount to the government, or on ac-

count of government, for the purpose of taking up this bill, or for any other purpose, without an act of Congress. The express words of the charter forbid it.

But, as a reason for removing the deposits, it appears to the committee quite immaterial whether the bank be right or wrong in claiming these damages. If wrong, it will not recover them. It is not the judge of its own rights; and if the appropriate tribunals shall decide that the bank was acting, on this occasion, or ought to have acted, as the agent of government, or that it was its duty to take up the bill on account of government, then the damages will not be awarded to it. In the worst aspect of this case, how can its conduct, in this respect, be any possible reason to justify the removal of the deposits? What connection has this occurrence with the safe-keeping of the public treasures, or with the remitting them from place to place, to meet the convenience of government, according to the duty of the bank under the charter? The bank thinks itself entitled to damages on a protested bill purchased and held by itself, and drawn by government. The Secretary of the Treasury thinks otherwise. If there be no reason to doubt the sincerity of the Secretary's conviction, there is as little to doubt the sincerity of that entertained by the bank; and it is quite inconceivable to the committee that the pendency of such a difference of opinion, on such a question, should furnish any reason whatever for withdrawing the deposits, unless it be at once admitted that the Secretary holds the power of removal as a perfectly arbitrary power, and may exercise it, by way of punishment, whenever, in any particular, the conduct or the opinions of the bank do not conform to his pleasure.

The Secretary does not argue this matter. He offers no reason in opposition to the legal right of the bank to the damages claimed. Indeed, he hardly denies the right. He commences his observations on the subject by saying that the ruling principle of the bank is its own interest; and closes them with another declaration, that, as fiscal agent to the public, it availed itself of the disappointment of its principal for the purpose of enlarging its own profits. Assertions like these, however else they may be disposed of, cannot be made subjects of argument.

The last charge preferred against the bank is, that it has used

its pecuniary means with a view to obtain political power, and thereby secure the renewal of its charter.

The very statement of such a charge, as a reason for removing the deposits, is calculated to excite distrust in the wisdom and propriety of that measure; because the charge, too general to be proved, is too general, also, to be disproved; and, since it must always rest mainly on mere opinion, it might be made at any time, by any Secretary, against any bank. It would be, therefore, always a convenient cloak under which to disguise the true motives of official conduct.

If proof be made out that the funds of the bank have been applied to illegal objects, the proper mode of redress and punishment should have been adopted; but what has this to do with the deposits? As in the case of the French bill, the Secretary cannot justify the removal of the deposits on any such ground as this, unless it be conceded that he may use the power of removal as a punishment for any offence, of any kind, which the bank, in his opinion, may have committed. The committee have already expressed the opinion that no such latitude of power belongs to him; and the assertion of such a power, for such a cause as is now under consideration, shows that the power ought never to belong to any Secretary; because the offence on account of which it is here proposed to be exercised is a political offence, incapable of definition, depending merely on the Secretary's opinion, and necessarily drawing into its consideration all the exciting controverted topics of the day. The bank, it is said, "has sought to obtain political power." What is the definition of such an offence as this? What acts constitute it? How is it to be tried? Who is to be the judge? What punishment shall follow conviction? All must see that charges of this nature are but loose and vague accusations, which may be made at any time, and can never be either proved or disproved; and to admit them as sufficient grounds to justify the removal of the deposits, would be to concede to the Secretary the possession of a power purely arbitrary.

The main fact relied on for this cause of removal shows how extremely unsafe all proceedings on any such reasons must be. That main fact is, that, between December, 1830, and December, 1831, the bank extended its loans twenty millions of dollars; and, as if to leave no doubt of the motive of this extraordi-

nary conduct, it is further alleged that it continued to add rapidly to its loans, until, in May, 1832, while its petition for renewal was pending, those loans amounted to seventy millions. The Secretary declares that this extraordinary increase of loans, made in so short a space of time, and on the eve of a contested election, in which the bank took an open and direct interest, demonstrates that it was using its money to obtain a hold upon the people of the country, in order to induce them, by the apprehension of ruin, to vote against the candidate whom it desired to defeat. This is strong assertion; but, so far as the committee perceive, it is assertion merely. It is but the Secretary's own inference from facts, from which very facts his predecessors in office have drawn no such conclusions. This great extension of the loans, be it remembered, took place in 1831. Why was it not then complained of? How should it have escaped the vigilance of the Secretary of that day, at the time it took place? And if it did not escape his vigilance, why did he not remove the deposits? So, also, as to the amount of loans in May, 1832. That amount was perfectly well known at the time; and if it proved any offence, why was not the punishment inflicted then? How should all other Secretaries have slept over this great mischief?

It might further be well asked, What evidence is there of the existence of any such motive as is imputed to the bank, in this extension of its loans? There is no evidence, but the mere fact itself of the extension; and it cannot be denied, that other and very different reasons for the extension may have existed; so that the charge is proved no otherwise than by inferring a bad motive from an act lawful in itself, and for which good reasons may have existed.

Nor is it either acknowledged, nor, so far as the committee know, proved, that the bank took an open and direct interest, as a corporation, in the election referred to. The bank, no doubt, was much interested in certain accusations which had been brought against it, and which became subjects of public discussion during the pendency of that election. It had been charged with great misconduct, and gross violation of its charter. These accusations must, undoubtedly, have called on the directors for answer. If made before Congress, they were to answer before Congress; if made judicially, they were to answer in the courts;

if made in an official and formal manner, and in that manner submitted to the judgment of the country, the directors were bound to meet them before that country, by every fair use of fact and argument, not only for the purpose of defending themselves as directors, but for the higher purpose of maintaining the credit of the bank, and protecting the property intrusted to their care. If, in thus defending the bank before the community, the directors carried their measures beyond this fair object of defence, or if they resorted to dishonorable or indecorous modes of discussion; if they sought rather to inflame than to reason; if they substituted personal crimination for argument; if even they met invective and violence with corresponding invective and violence, — they followed bad examples, and are not to be justified. But of their right to defend themselves before the public against grave charges brought against them, and urged before the public, the committee entertain no doubt; and they are equally clear in opinion, that the Secretary of the Treasury is not constituted the judge of the mode of exercising this right, and cannot justly remove the deposits merely because the conduct of the bank, in this particular, has not happened to conform to his wishes.

The committee, therefore, consider this last reason of the Secretary equally insufficient with the rest; and they regard it as the most objectionable of all in its principle, inasmuch as it proceeds on grounds which, if admitted, would leave a very high official duty to be exercised from considerations connected with the political feelings and party contests of every day, with no guide but the individual opinion of the officer who is to perform the act, an opinion which, it is possible, may itself be no less tinctured with political motive and feeling than the conduct which it would reprehend. If an unlimited power be conceded to the Secretary to inflict penalties on the bank for supposed political motives, in acts legal in themselves, where is the security that the judge may not be found acting under the same impulses which he imputes to the party accused?

The committee entertain no doubt that the immediate cause of the existing public distress is to be found in the removal of the public deposits, and in the manner in which that removal has been made. No other adequate cause has been suggested; and those who justify the removal do not so much deny this

to have been the cause, as insist that it was not necessary that any such effect should have followed from it. In other words, they argue that, notwithstanding the removal, the bank still possessed the power, if it had chosen to exercise it, of warding off the blow which has fallen on the country, or at least of mitigating its severity.

Nothing could have been rationally expected but that the bank, deprived of the deposits, and denounced by the executive government, would feel itself called on to take just care of its own interest and its own credit. Of the means necessary to the attainment of these ends, the directors alone were judges, and the committee have no evidence before them to show that they have not exercised their judgment fairly, and with a real solicitude to accommodate the commercial community, in the altered state of things, as far as has been practicable, consistently with the security of the institution, which it is equally their duty to the public and the stockholders to maintain. They are certainly under every obligation of duty, in the present distressed state of the country, to do every thing for the public relief which is consistent with the safety of the bank, and with those considerations which the approaching expiration of its charter makes it important for the directors to regard.

The removal itself, and the manner of effecting it, are causes entirely sufficient, in the judgment of the committee, to produce all the consequences which the country has experienced, and is experiencing; and these consequences, they think, are to be referred to those causes as their just origin. How could any other result have been expected? The amount of the deposits was nine millions of dollars. On this amount in deposit there was sustained, no doubt, a discount of far greater magnitude. The withdrawal of this sum of nine millions from the bank necessarily compelled it to diminish its discounts to the full extent of that part which may be supposed to have been sustained by it. It is to be remembered, too, that this was done at a moment when business of every kind was pressed with great activity, and all the means of the country fully employed.

The withdrawal of so large an amount, at such a time, from hands actually holding and using it, could not but produce derangement and pressure, even if it had been immediately placed in other banks, and if no unfriendly feeling and no want of con-

fidence had attended the transaction. But it is quite obvious, that the operation to which the Secretary has resorted has been attended with both these additional and powerful causes of derangement. It has created unfriendly feelings, and it has diminished confidence. This change of the deposits is made on the strength of charges against the bank, of a very grave and aggravated nature; such as, if true, would most seriously affect its credit for solvency and stability. It is proclaimed to the whole world as having converted itself into a political partisan, misapplied its funds, neglected its highest duties, and entered on a career of electioneering against the government of the country.

These serious charges necessarily put the bank on its defence; and the extraordinary spectacle is exhibited of a warfare by the national government on the national bank, notwithstanding that the government is itself a great proprietor in the bank, and notwithstanding that the notes of the bank are the currency in which the revenues of the country are by law receivable. The true and natural relation between the government and the bank is altogether reversed. Instead of enjoying the confidence of the government, it is obliged to sustain its most serious official assaults, and to maintain itself against its denunciations. The banks selected by government as its agents are themselves thrown, perhaps unwillingly, into an attitude of jealousy and suspicion toward the Bank of the United States. They become cautious and fearful, therefore, in all their proceedings; and thus those who should coöperate to relieve the public pressure are considering mainly their own safety. Fearful of each other, and fearful of the government, they see the distress continue, with no power of beneficial interposition.

It may be asked, Why are not these deposit banks able to maintain as large a circulation on the nine millions of deposits as the Bank of the United States? And will they not be thus able when the present panic shall have subsided? The committee think both these questions easily answered.

The Bank of the United States has a credit more general, it may be said more universal, than any State bank can possess. The credit of the Bank of the United States is equally solid, its bills and notes received with equal confidence, for the purpose of circulation and remittance, in every quarter of the country.

No paper circulation, so far as the committee know, which ever appeared in the world, has approached nearer to the value and uniformity of a specie currency than the notes and bills of the Bank of the United States. To the State banks these notes and bills have performed the office of specie. All the State banks have discounted, upon the possession of them, with the same freedom and boldness as they would have done on an equal amount of the precious metals. The curtailment of their circulation, therefore, is not merely a withdrawal of the amount curtailed from the general mass of circulation; it is removing, rather, to the amount curtailed, the basis of the general circulation; and although the actual amount of notes and bills has not of late been much diminished, there is reason to suppose that the amount held by State banks has been greatly diminished.

The removal of the deposits has operated directly on the amount of the circulating medium, at a moment when that amount could not bear any considerable reduction, suddenly made, without producing sensible effect. It has diminished prices, and in some instances it has had this effect to a very material degree. It has operated on the internal exchanges, and has, most manifestly, been attended with very serious and heavy inconveniences in that important branch of the national interest. More than all, it has acted on opinion; it has disturbed the general confidence; it has weakened the public faith in the soundness of the currency; and it has alarmed men for the security of property. As yet, we hardly know its effects on the credit of the country in Europe. Perhaps it is not easy to anticipate those effects; but if causes which operate here should be found to have been efficient there also, a still greater degree of pressure and distress than has yet been felt may be expected.

The committee, therefore, cannot but regard the removal of the deposits, on the whole, as a measure highly inexpedient and altogether unjustifiable. The public moneys were safe in the bank. This is admitted. All the duties of the bank connected with these public moneys were faithfully discharged. This, too, is admitted. The subject had been recently before the House of Representatives, and that house had made known its opinion against the removal by a very unequivocal vote. Another session of Congress was close at hand, when the whole matter would again come before it. Under these circumstances, to make the

removal, with the certainty of creating so much alarm, and of producing so much positive evil and suffering, such derangement of the currency, such pressure and distress in all the branches of the business of private life, is an act which the committee think the Senate is called on to disapprove.

The reasons which have thus been stated apply to the whole proceedings of the Secretary in relation to the public deposits, and make it unnecessary to consider whether there be any difference between his power over moneys already in the bank, and his power to suspend future deposits. The committee forbear, also, to consider the propriety of the measures adopted by the Secretary for the safe-keeping of the public moneys since their withdrawal from the bank. They forbear, too, from entering into any discussion at present of the course of legislation proper to be adopted by Congress under the existing state of things. In this report, they have confined themselves to the consideration of the removal of the deposits, the reasons assigned for it, and its immediate consequences; and on these points they have formed the opinions which have now been expressed.

They recommend to the Senate the adoption of the resolution which has been referred to them.

THE CONTINUANCE OF THE BANK CHARTER.*

MR. PRESIDENT, — I rise, pursuant to notice, to ask leave to bring in a bill to continue for six years the act incorporating the subscribers to the Bank of the United States; and I shall hope for that indulgence of the Senate which is usually granted on such occasions, if I accompany its introduction with some remarks on the general state of the country, as well as on the nature of the measure proposed. If leave be granted, it is my purpose to move to refer the bill to the Committee on Finance, that it may take the usual course, and come up for the consideration of the Senate in due season.

Mr. President, in the midst of ample means of national and individual happiness, we have, unexpectedly, fallen into severe distress. Our course has been suddenly arrested. The general pulse of life stands still, and the activity and industry of the country feel a pause. A vastly extended and beneficent commerce is checked; manufactures are suspended, with incalculable injury to those concerned in them; and the labors of agriculture threatened with the loss of their usual reward. Our resources are, nevertheless, at the same time, abundant, and all external circumstances highly favorable and advantageous; such as fairly promised us, not only a continuance of that degree of prosperity which we have actually enjoyed, but its rapid advancement to still higher stages.

The condition of the country is, indeed, singular. It is like that of a strong man chained. In full health, with strength unabated and all its faculties unimpaired, it is yet incapable of

* A Speech delivered in the Senate, on the 18th of March, 1834, on moving for leave to introduce a Bill to continue the Bank of the United States for Six Years.

performing its accustomed action. Fetters and manacles are on all its limbs. If we could but unbind it, if we could break these iron chains, if we could once more set it free, it would in a moment resume its activity, and go on again in its rapid career. It is our duty, Sir, to relieve this restraint, to unshackle the industry of the people, and give play, once more, to their common action and their common energies. The evils, all the evils, which we now feel, and feel so acutely, result from political measures; and by political measures, and political measures alone, can they be redressed. They have their origin in acts of government, and they must find their cure in other acts of government.

Only six months ago, Sir, the country presented an aspect, in regard to all its great interests, exceedingly satisfactory and gratifying. Our commerce was highly prosperous, and our manufactures, for the present at least, flourishing. Agricultural products commanded fair prices, and the general appearance of things exhibited more than a usual degree of activity. The year elapsing between the autumn of 1832 and that of 1833 was a year of great prosperity. In the activity of commerce, it is possible enough that some degree of over-trading had taken place; but there is nothing to show that great excess had been committed in that particular. In general, the state of things was one of real prosperity. The commerce of the country had reached, I think, to a greater extent than in any former year; the amount of the exports for 1833 being, according to the treasury estimate, no less than ninety millions of dollars, and that of the imports no less than one hundred and nine millions. The internal and coasting trade was in a still more flourishing condition. This branch of the national industry has grown into the very highest importance, affording a vast field for active usefulness, enriching all parts of the country by its mutual exchanges of commodities, and furnishing profitable employment to great numbers of the people. It was carried on last year, both by sea and land, with great vigor; and the situation of the currency of the country gave it facilities such as never existed elsewhere, to such an extent. The money circulation was free, and the banks in good credit. They were, doubtless, somewhat too economical in the use of specie, and sustained their credit on a basis not sufficiently broad to be quite secure.

But no great degree of danger to the circulation was generally feared.

Such was our condition in September last; and the change which has since taken place must strike all minds. How do we stand now, in respect to these great interests? Let us look to our commerce, the main source of our revenue, as well as a source of wealth, and let us see how that is affected, or likely to be affected, by recent occurrences. I have stated the amount of exports and imports for the last year; those for the present year cannot, of course, be yet estimated with accuracy; but we are not without some means of forming an opinion upon this interesting point. I think it is evident that there must be a falling off in the imports, and consequently a falling off in the revenue. I shall be very glad to find myself mistaken in this opinion; but it appears to me there is much reason to entertain it. As one of the Committee on Finance, I have felt it my duty, of course, to look to the state of the treasury, and to form some opinion, if I could, of what may be its future condition. Its present state, as we learn from the Secretary's report, with his estimate of the receipts and expenditures of the year, is substantially as follows: —

Estimated balance in the treasury, January 1, 1834, .		$ 7,983,790
But from this deduct the amount of appropriations already made, and which remain unsatisfied, which amount, the Secretary supposes, may yet be required for the objects for which it was appropriated, ...		5,190,287
Balance remaining in the treasury, unappropriated, .		$ 2,793,503
Estimated amount of receipts for 1834:		
Customs, ...	$ 15,000,000	
Land, ...	3,000,000	
Bank dividends and miscellaneous, . .	500,000	
		18,500,000
Total of means for the use of 1834, ...		$ 21,293,503
Estimated expenditures for 1834, ...		23,501,994

This statement would seem to threaten a deficit of more than two millions; and this will doubtless be the result, should the appropriations for the year all be called for within the year; but experience shows that this is not to be expected. What amount

of appropriations may remain uncalled for, however, is necessarily uncertain. Among the expenditures, it is to be observed, is included the sum of five millions, within a fraction, for the payment of the balance of the public debt, which becomes "*reimbursable*" at the commencement of next year. The Secretary supposes, even without making any allowance for the effect of recent measures, that the receipts for 1835 will be still less than those for 1834; and that, unless the revenue should be more productive than is anticipated, it will be necessary, in two years from this time, to retrace our steps, and to impose duties on articles which are now free, in order to meet the current expenses of the government. If such were the prospects of the country in regard to revenue before the late measures had so much disturbed its commerce, it cannot but be expected that, under the influence of that cause, there may be a very considerable deficiency, especially should the cause continue. It is not very easy to ascertain to what extent the importations of the year may fall short of previous importations, in consequence of the disturbed state of things; but I know the opinion is entertained among those who have the best means of forming a correct judgment, that there may be a falling off in the receipts of the customs of from a quarter to a third of the amount anticipated. Should this prove to be true, which there is certainly too much reason to fear, Congress may be called on, much earlier than within two years, to provide additional means of revenue.

The diminution will be mainly felt in the last half of the year, it being generally understood that orders for foil importations have been countermanded to a great extent. It is not thought improbable, that the receipts of the year from customs, estimated at fifteen millions, will fall down to twelve. This, should it happen, would no otherwise disturb the ascertained course of things than as it would postpone the payment of the balance of the public debt; but this effect it is not unlikely to produce. On such subjects, however, no very sure anticipations can be founded, and therefore I speak with no positiveness. But it is my expectation that the receipts for the year will fall below the estimate, and probably to the extent I have mentioned; and that this effect will be produced by no other cause than the deranged state of things occasioned by the removal of the public moneys from the Bank of the United States.

If such are the consequences of the measure on our foreign commerce, and on the revenue, its effect on the internal trade of the country is a thousand times more disastrous. Here it produces not only diminution, but stagnation; and such a stagnation as has caused a cessation of production. The industry of the country is arrested, and its useful labor suspended. Great activity prevailed in the manufacturing districts, under a sanguine expectation that the law of the last session would, for a time at least, insure success to that great interest. But this new measure has struck that interest with a sudden and deadly blow. It is now but little more than twelve months since the manufacturing portion of the community was deeply alarmed by the pendency of a measure in the other house, known usually as Mr. Verplanck's bill. Throughout the Middle and the Northern States, and wherever that interest existed, the apprehension of change in the policy of the country diminished the value of property, embarrassed all calculations for the future, and disturbed and deranged the course of private occupation and industry. But how small was all that evil, compared with the effects produced by the Secretary of the Treasury, when he interfered with the public revenues!

I will not go over the long list of cases in which prosperous manufacturing establishments have been compelled to discontinue their operations under the pressure of the times. I will only advert to an instance or two, taken, without selection, from papers and letters before me. Let Paterson, in New Jersey, be one of these instances; the condition of which interesting and afflicted town has been, indeed, repeatedly presented to the Senate by the members from that State. The population of Paterson, I believe, is about ten thousand; and it is known to be a population almost exclusively engaged in manufactures. In September last, 43,500 spindles were in operation in it. Of these, 24,500 have stopped, and 5,000 others are expected to stop as soon as stock on hand is worked up. I am informed that the manufacturers at Paterson cannot prevail on their consignees in Philadelphia and New York to become responsible for them, even to the amount of one third the cost of producing the article. The means, therefore, of paying labor, and purchasing new stock, are completely cut off.

We may see another instance, sufficiently appalling, in the

manufactures of New Hampshire. I understand that a cotton-mill at Dover, of six thousand spindles, has ceased operation, and another was to cease on the 15th of this month; a mill with four thousand spindles at Newmarket, and another at Nashua of five thousand, have ceased also; and a large woollen mill, at a place called the Great Falls, employing two or three hundred hands, has stopped with the rest. These, Sir, are instances of the effect of the experiment upon our manufacturing interests. Accounts similar to these have reached us from New York, Connecticut, Maine, Vermont, Rhode Island, and Pennsylvania. I need not enter into the particulars of these accounts. Their general character is like that of those which I mentioned from New Jersey and New Hampshire.

It is often inquired, how this enormous amount of evil could spring from a cause so apparently inadequate to produce it. Can it be possible, it is asked, that the Secretary has brought about all this distress simply by removing a few millions of dollars from one bank into other banks? Sir, nothing is more true, and nothing more easily accounted for.

Every commercial country has one great representative, constantly passing and acting between all its citizens. This universal representative is money, or credit, in some form, as its substitute. Without this agency nothing can be bought, and nothing can be sold; capital has no income, and labor no reward. It is no more possible to maintain the ordinary business and intercourse between man and man without money and credit, than to maintain an intercourse between nations without ministers or public agents, or to maintain punctual correspondence by letter without the mail. And all the distress which the country now suffers arises solely from acts which have deranged the currency of the country and the credit of the commercial community. The country is as rich, in its general appearance, as it was before the experiment was begun; that is to say, men have the same houses, lands, ships, and merchandise. But the value of these has fallen; or, to speak more correctly, they have lost the power of being exchanged; and they have lost this power because of the embarrassment which has befallen the general medium of exchange.

Six months ago, a state of things existed highly prosperous and advantageous to the country, but liable to be injuriously

affected by precisely such a cause as has now been put into operation upon it. Business was active, and carried to a great extent. Commercial credit was expanded, and the circulation of money was large. This circulation being of paper, of course rested on credit; and this credit was founded on banking capital and bank deposits. The public revenues, from the time of their collection to the time of their disbursement, were in the bank and its branches, and, like other deposits, contributed to the means of discount. Between the Bank of the United States and the State banks, there was a degree of watchfulness, perhaps of rivalry; but there was no enmity, no hostility. All moved in their own proper spheres, harmoniously and in order.

The Secretary disturbed this state of peace. He broke up all the harmony of the system. By suddenly withdrawing all the public moneys from the Bank of the United States, he forced that bank to an immediate correspondent curtailment of its loans and discounts. It was obliged to strengthen itself; and the State banks, taking the alarm, were obliged to strengthen themselves also by similar measures; so that the amount of credit actually existing, and on which men were doing business, was all at once greatly diminished. Bank accommodations were withdrawn; men could no longer fulfil their engagements by the customary means; property fell in value; thousands failed; many thousands more maintained their individual credit by enormous sacrifices; and all, being alarmed for the future, as well as distressed for the present, forbore from new transactions and new engagements. Finding enough to do to stand still, they do not attempt to go forward. This deprives the industrious and laboring classes of their occupations, and brings want and misery to their doors. This, Sir, is a short recital of cause and effect. This is the history of the first six months of the "experiment."

Mr. President, the recent measures of the Secretary, and the opinions which are said to be avowed by those who approve and support them, threaten a wild and ruthless attack on the commercial credit of the country, that most delicate and at the same time most important agent of general prosperity. Commercial credit is the creation of modern times, and belongs, in its highest perfection, only to the most enlightened and best

governed nations. In the primitive ages of commerce, article is exchanged for article, without the use of money or credit. This is simple barter. But in its progress, a symbol of property, a common measure of value, is introduced, to facilitate the exchanges of property; and this may be iron, or any other article fixed by law or by consent, but has generally been gold and silver. This, certainly, is a great advance beyond simple barter, but no greater than has been gained, in modern times, by proceeding from the mere use of money to the use of credit. Credit is the vital air of the system of modern commerce. It has done more, a thousand times, to enrich nations, than all the mines of all the world. It has excited labor, stimulated manufactures, pushed commerce over every sea, and brought every nation, every kingdom, and every small tribe, among the races of men, to be known to all the rest. It has raised armies, equipped navies, and, triumphing over the gross power of mere numbers, it has established national superiority on the foundation of intelligence, wealth, and well-directed industry. Credit is to money what money is to articles of merchandise. As hard money represents property, so credit represents hard money; and it is capable of supplying the place of money so completely, that there are writers of distinction, especially of the Scotch school, who insist that no hard money is necessary for the interests of commerce. I am not of that opinion. I do not think any government can maintain an exclusive paper system, without running to excess, and thereby causing depreciation.

I hold the immediate convertibility of bank-notes into specie to be an indispensable security for their retaining their value; but, consistently with this security, and, indeed, founded upon it, credit becomes the great agent of exchange. It is allowed that it increases consumption by anticipating products; and that it supplies present wants out of future means. As it circulates commodities without the actual use of gold and silver, it not only saves much by doing away with the constant transportation of the precious metals from place to place, but accomplishes exchanges with a degree of despatch and punctuality not otherwise to be attained. All bills of exchange, all notes running upon time, as well as the paper circulation of the banks, belong to the system of commercial credit. They are parts of one great whole. And, Sir, unless we are to reject the lights of expe-

rience, and to repudiate the benefits which other nations enjoy, and which we ourselves have hitherto enjoyed, we should protect this system with unceasing watchfulness, taking care, on the one hand, to give it full and fair play, and on the other, to guard it against dangerous excess. We shall show ourselves unskilful and unfaithful statesmen if we do not keep clear of extremes on both sides.

It is very true that commercial credit, and the system of banking, as a part of it, furnish a substitute for capital. It is very true that this system enables men to do business, to some extent, on borrowed capital; and those who wish to ruin all who make use of borrowed capital act wisely to that end by decrying it.

This commercial credit, Sir, depends on wise laws, steadily administered. Indeed, the best governed countries are always the richest. With good political systems, natural disadvantages and the competition of all the world may be defied. Without such systems, climate, soil, position, and every thing else, may favor the progress of wealth, and yet nations be poor. What but bad laws and bad government have retarded the progress of commerce, credit, and wealth in the peninsula of Spain and Portugal, a part of Europe distinguished for its natural advantages, and especially suited by its position for an extensive commerce, with the sea on three sides of it, and as many good harbors as all the rest of Europe? The whole history of commerce shows that it flourishes or fades just in proportion as property, credit, and the fruits of labor are protected by free and just political systems. Credit cannot exist under arbitrary and rapacious governments, and commerce cannot exist without credit. Tripoli and Tunis and Algiers are countries, above all others, in which hard money is indispensable; because, under such governments, nothing is valuable which cannot be secreted and hoarded. As government rises in the scale of intelligence and liberty, from these barbarous despotisms to the highest rank of free states, its progress is marked, at every step, by a higher degree of security and of credit. This undeniable truth should make well-informed men ashamed to cry out against banks and banking, as being aristocratical, oppressive to the poor, or partaking of the character of dangerous monopoly. Banks are a part of the great system of commercial credit, and have done much, under the influence of good government, to aid

and elevate that credit. What is their history? Where do we first find them? Do they make their first appearance in despotic governments, and show themselves as inventions of power to oppress the people? The first bank was that of Venice; the second, that of Genoa. From the example of these republics, they were next established in Holland and the free city of Hamburg. England followed these examples, but not until she had been delivered from the tyranny of the Stuarts by the revolution of 1688. It was William the Deliverer, and not William the Conqueror, that established the Bank of England. Who supposes that a Bank of England could have existed in the times of Empson and Dudley? Who supposes that it could have lived under those ministers of Charles the Second who shut up the exchequer, or that its vaults could have been secure against the arbitrary power of the brother and successor of that monarch?

The history of banks belongs to the history of commerce and the general history of liberty. It belongs to the history of those causes which, in a long course of years, raised the middle and lower orders of society to a state of intelligence and property, in spite of the iron sway of the feudal system. In what instance have they endangered liberty or overcome the laws? Their very existence, on the contrary, depends on the security and the rule both of liberty and law. Why, Sir, have we not been taught, in our earliest reading, that to the birth of a commercial spirit, to associations for trade, to the guilds and companies formed in the towns, we are to look for the first emergence of liberty from the darkness of the Middle Ages; for the first blush of that morning, which has grown brighter and brighter till the perfect day has come? And it is just as reasonable to say that bills of exchange are dangerous to liberty, that promisssory notes are dangerous to liberty, that the power of regulating the coin is dangerous to liberty, as that credit, and banking, as a part of credit, are dangerous to liberty.

Sir, I hardly know a writer on these subjects who has not selected the United States as an eminent and striking instance to show the advantages of well-established credit, and the benefit of its expansion, to a degree not incompatible with safety, by a paper circulation. Or, if they do not mention the United States, they describe just such a country; that is to say, a new and fast-growing country. Hitherto, it must be confessed, our

success has been great. With some breaks and intervals, our progress has been rapid, because our system has been good. We have preserved and fostered credit, till all have become interested in its further continuance and preservation. It has run deep and wide into our whole system of social life. Every man feels the vibration, when a blow is struck upon it. And this is the reason why nobody has escaped the influence of the Secretary's recent measure. While credit is delicate, sensitive, easily wounded, and more easily alarmed, it is also infinitely ramified, diversified, extending everywhere, and touching every thing.

There never was a moment in which so many individuals felt their own private interest to be directly affected by what has been done, and what is to be done. There never was a moment, therefore, in which so many straining eyes were turned towards Congress. It is felt, by every one, that this is a case in which the acts of the government come directly home to him, and produce either good or evil, every hour, upon his personal and private condition. And how is the public expectation met? How is this intense, this agonized expectation answered? I am grieved to say, I am ashamed to say, it is answered by declamation against the bank as a monster, by loud cries against a moneyed aristocracy, by pretended zeal for a hard-money system, and by professions of favor and regard to the poor.

The poor! We are waging war for the benefit of the poor! We slay that monster, the bank, that we may defeat the unjust purposes of the rich, and elevate and protect the poor! And what is the effect of all this? What happens to the poor, and all the middling classes, in consequence of this warfare? Where are they? Are they well fed, well clothed, well employed, independent, happy, and grateful? They are all at the feet of the capitalists; they are in the jaws of usury. They are at the mercy of those who, if there be hearts of stone in human bosoms, have such hearts in their breasts. Look to the rates of interest, mounting to twenty, thirty, fifty per cent. Sir, this measure of government has transferred millions upon millions of hard-earned property, in the form of extra interest, from the industrious classes to the capitalists, from the poor to the rich. And this is called putting down a moneyed aristocracy! Sir, there are thousands of families who have diminished, not their luxuries,

not their amusements, but their meat and their bread, that they might be able to save their credit by paying enormous interest. And there are other thousands, who, having lost their employment, have lost every thing, and who yet hear, amidst the bitterness of their anguish, that the great motive of government is kindness to the poor!

It is difficult, Sir, to restrain one's indignation, when to so much keen distress there is added so much which has the appearance of mere mockery. Sir, let the system of the administration go on, and we shall soon not know our country. We shall see a new America. On the map, where these United States have stood, we shall behold a country that will be strange to us. We shall see a class of idle rich, and a class of idle poor; the former a handful, the latter a host. We shall no longer behold a community of men, with spirits all active and stirring, contributing, all of them, to the public welfare, while they partake in it, pushing on their fortunes, and bettering their own condition, and helping to swell, at the same time, the cup of the general prosperity to overflowing. We shall see no more of that credit which reaches out its hand to honest enterprise; of that certainty of reward, which cheers on labor to the utmost stretch of its sinews; of that personal and individual independence, which enables every man to say that no man is his master. Sir, I will not look on the picture. I will not imagine what spectacle will be exhibited, when this country not only halts in her onward march, but recedes; when she tracks back in the long and rapid strides of her forward movement; when she sets herself to undo all that she has done; when she renounces the good she has attained; when she obstructs credit, destroys enterprise, arrests commerce, and crushes manufactures.

Mr. President, I confess I find it difficult to respect the intelligence, and at the same time the motives, of those who alarm the people with the cry of danger to their liberties from the bank. Do they see the same danger from other banks? I think not. With them, bank capital and bank credit are dangerous or harmless, according to circumstances. It is a lion, whose conduct and character appear to depend on its keeper. Under the control of this government, it is fearful and dangerous; but under State authority, it "roars as gently as a sucking dove; it roars as it were any nightingale."

Both the members from New York have labored to persuade us that the public liberties of this whole country are in imminent danger from a bank with thirty-five millions. And yet, Sir, they feel no fears for the liberty of the people of their own State, with a banking capital of twenty-three millions, and a proposed addition of ten millions, all lodged in banks associated under the Safety Fund system, and all under the supervision of a political board, appointed by the government. In all this they see no danger to liberty; but their anxiety is intense lest a bank of thirty-five millions should enslave all the people of the twenty-four States!

Again, Sir, from the time of the *veto* message to the present moment, the country has been assailed with the cry of danger from the small portion of foreign capital which is in the stock of the bank. Republicanism, it is said, cannot exist in a country where there is a bank with dukes and marquesses and lords among its stockholders. And yet, Sir, have we not seen the executive approving of an enormous loan by the cities of this District from Dutch capitalists, and sanctioning a law binding down all their citizens, and all their property, to pay the interest of this foreign debt, by provisions vastly more strict and severe than those which compel the payment of taxes to their own government? And is not Pennsylvania now deliberating whether she will not send an agent to Europe to borrow money to meet that very exigency which the present state of things creates? And is not the new bank, too, proposed to be established in New York, to be created on foreign capital?

Sir, are arguments of this nature altogether creditable to the country? Do they exhibit us in a respectable light abroad? Do intelligent observers, elsewhere, behold our public men addressing themselves to the people in fair discussion on the real merits of public questions; or may they not think, rather, that they see them attempting to carry favorite measures of party by false cries of danger to liberty?

The truth is, that banks, everywhere, and especially with us, are made for the borrowers. They are made for the good of the many, and not for the good of the few. Even their ownership, to a very great extent, is in the hands of men of moderate property. I have read a very able speech, by Mr. Cushing, in the legislature of Massachusetts, in which he states that he has taken

pains to examine the list of stockholders in several banks in his neighborhood, and he finds a major part of the stock (I think more than two thirds) in the hands of charitable societies, guardians, widows, and traders with small capital. And, Sir, at this moment the stockholders of the Bank of the United States have infinitely less interest as stockholders in the questions which we are discussing, than they have as citizens of the country. The stock is constantly in the market, and daily changing hands; and any one who wishes for it may always buy it. It is not permanently vested in any hands; and this of itself shows that the corporation is, in its nature, incapable of prosecuting any purpose hostile to the public liberties.

Indeed, Sir, I think it time, high time, that there should be a pause in this outcry against the bank, as dangerous from its political power, or as favoring wealth in its accumulation rather than in its distribution. Prejudice excited against the bank is a much more powerful engine for political purposes than the bank itself. It is more than a match for ten banks. Not long ago, a member, not now with us, declared on this floor, that in the course of his political struggles, some years ago, he felt sure of triumph the moment an impression was made that the bank had taken part against him; and that, if he were again to be a candidate, he should wish for no surer pledge of success. His own experience, thus candidly stated, seems not to have been lost on others. I full well know, Sir, the power of such prejudices. I know how easily they may be excited, and how potent is their agency. Efforts to excite them, and calculations on their efficacy when excited, have sometimes succeeded, and must be expected sometimes to succeed, in popular governments. They are among the means by which little men occasionally become great. But they are not among the means by which lasting character is to be attained, any more than they are among the means by which substantial and important public service is to be rendered to the country.

I now proceed, Mr. President, to the state of opinion existing, both in and out of Congress, as to the remedy proper for the present condition of things.

There are three classes of persons, holding on this subject different opinions: —

1. Those who believe a bank to be constitutional and neces-

sary, and, seeing no danger from the present institution, would prefer, if they could follow their own choice, to recharter the bank, for the usual period, with the usual powers; modified, however, in any manner that the experience of the past may suggest:

2. There are those who think a bank useful, but who do not believe Congress has the power to incorporate a bank under any form.

3. There are those who admit the power of Congress to make a bank, and are in favor of some bank, but oppose the continuance of the bank now existing.

It is obvious, Sir, that, if any relief come to the country, it must proceed from some degree of union between these classes, or some of them; and the question is, Is there any common ground on which they can meet? Is there any expedient on which they will consent to lay hold to save the country? Or will they leave it a prey to their differences of opinion?

Now, Sir, among those who oppose those measures of government which have brought the present distress on the country, a great majority would prefer a continuance of the charter of the present bank for the usual term. This would be their wish, and I am one of them. We passed a bill for such a recharter through both houses, two years ago, but it was negatived by the President. I would prefer a bank of fifteen or twenty years' duration; either this or a new one; for I do not act from a regard to the pecuniary interest of the stockholders in the present bank, although I would not consent to do them any injustice. But, Sir, I see no chance of at present renewing this charter for a long period. It appears to me that the minds of members of Congress are in a state to render this hopeless. I give up, therefore, my own preference; I sacrifice my opinions to that necessity which I feel to be imposed upon me by the condition of the country. I go for relief, for efficient relief, and for immediate relief. I feel this to be demanded of me by every dictate of duty and patriotism, and by the loud voice of the country. I obey that voice, and cheerfully yield every thing to the accomplishment of the object. When I ask others to make sacrifices, I begin with making them myself. Preferring a permanent measure, I yet agree to a temporary measure. Desirous of settling the question for a length of years, I yet consent to leave it open,

in the hope of obtaining present relief and security; and I earnestly entreat all those with whom I have generally concurred in opinion, to concur in a temporary measure. If we cannot do all we would, let us do what we can. *Let us make a proposition which no reasonable man who really desires to relieve the country can object to.* That is my object, and with that single object have I prepared this bill.

And now, Sir, I will say a word to the gentlemen who have constitutional scruples about all banks. They find a bank actually existing. They find that this bank, or another like it, has existed through more than three fourths of the whole period of our government. They find Congress to have asserted the constitutional power to establish a bank, over and over again; they find all the judicial tribunals to have sanctioned the power, and four fifths of the State legislatures, and as great a proportion of the people, to have confirmed it. Now, Sir, as sensible and candid men, they cannot say that it is a clear case *against* the power. They must admit there is some reason for supposing the power to exist. The most they can say is, that the bank stands on a doubtful authority. Now, suppose that to be true. Let it be admitted that the bank stands on a doubtful title. Does it follow that they must suddenly destroy it? Will not they give it time to wind up its affairs, without producing excessive injury to the people? Shall it be brought to a sudden termination, at whatever cost, at whatever ruin to the public happiness? Besides, Sir, if the bank be unconstitutional, what is that state of things into which the country must fall when the bank charter expires? Can any thing be more unconstitutional than that state of things?

Again, Sir, I must say, that some of those States now most opposed to the bank on constitutional grounds helped to make it. Look to New York; look even to Virginia: these States had much more hand in creating this bank than Massachusetts. In 1816, there was no majority of the members from Virginia in the two houses of Congress opposed to the bank on constitutional grounds. Virginia actually gave much more support to it than Massachusetts, and a Virginia President approved the bill. May not a degree of forbearance, then, be justly expected, even though the opinion should now be that the bank stands on a doubtful right? Sir, it is enough to state these suggestions,

without arguing them at length, to candid and honorable men.

I do not, on this occasion, argue the question of the power of Congress to make a bank, but I cannot but recur to the strong view presented of the subject the other day by the honorable member from Vermont near me.* Congress, said he, having, by express grant, the power to regulate commerce between the several States, if money, if currency, silver or paper, be a thing essential to commerce, how can they regulate the commerce without regulating the currency of the country? And if the Constitution of the United States does allow the States to create banks with power to issue paper, and Congress still may not control or regulate that paper, either by a bank of its own or any other just means, how can it be said that Congress has power to regulate commerce between the States? These are questions which I cannot answer.

In the next place, Sir, as I have said, there are those who are for a new bank.

Sir, gentlemen may well be for a new bank; but they cannot be for that and for nothing else, if they really intend to relieve the country. No new bank can be established before 1836. This we all know. And what are we to do in the mean time? I am not against a new bank, when the proper time comes to make it, if that shall be the general voice of the country; but it is idle to talk of a new bank now. Those cannot feel the exigency of the moment, they do not realize the pressure of the times, who talk of a new bank and nothing but a new bank. Let them bring forward a project for a new bank whenever they please; but let us, in the mean time, not suffer the present distress of the country to go on and to increase for the want of a more immediate measure. I do not object to take the question of a new bank into consideration at any time, either in this Congress or the next; but I do object to holding out any hope to the country of immediate relief from such a measure, because we know it cannot afford such relief. We are in an emergency. Great interests are in danger of being overwhelmed; we need some plank, something to lay hold on, to buoy us up and keep our heads above water, until more effectual and permanent provision for our safety can be made.

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* Mr. Prentiss.

I will now, Sir, state the general substance of the bill which I ask leave to introduce.

The first section proposes to continue the present bank for six years, but with this provision; namely, that so much of the present charter as gives the bank an exclusive right shall not be continued, but that Congress may make any other bank, if it see fit, to come into existence at any time after 1836.

This is the great feature of the bill. It continues the bank for a short period, and takes away the exclusive right. Congress is thus left at perfect liberty to make another bank whenever it chooses. When the present agitation shall have subsided, when a day of calm consideration comes, and the people have had time for deliberation, then Congress may make a permanent provision, satisfactory to itself and to the country. Can any thing be more reasonable than this? Can the bitterest enemy of the present bank refuse to give it time to wind up its affairs without distress to the people? Can the most ardent advocate of a new bank refuse, meantime, to allow the country to relieve itself by the use of the present, until a new one shall be established?

Sir, I am not dealing in plausibilities only. I mean to leave the whole question between this bank and a new one fairly open. I mean to give to neither any manner of advantage. If Congress establish a new bank, it may easily go into operation while the present is gradually retiring from operation, and the business of the country will feel no violent shock. I mean to give the present bank no claim to a renewal; but, on the contrary, the only new power conferred on it by this bill is a power to enable it to wind up its concerns.

As to the time, I think six years not too long. If we were now certain that a new bank would come into existence in 1836, I think it would be convenient for all parties that this bank should have six years to run. The new bank would hardly get into full operation under a year or two, and time is absolutely necessary to enable this bank gradually to collect its debts. A hastened collection must distress the people. With an existing debt of fifty-five millions, and pressed and solicited on all sides still further to extend its loans, in order to relieve the country, all must see that the affairs of the bank cannot be closed without intolerable pressure on the community, unless time be given for that purpose. But if six years be thought too

long, I will consent to five, or to four. My own opinion is, that six years are not too long.

The second section provides, that the public moneys becoming due after the 1st of July shall be deposited in the bank and its branches as heretofore, subject, however, *at any time after this act shall be accepted*, to be removed by order of Congress. If Congress shall establish a new bank, it will of course remove the deposits into it. The effect of this provision will be to give to Congress, at all times, what rightfully belongs to it, a full control over the public purse. It separates that purse from the sword, and reëstablishes the just authority of the legislature.

Then comes the section by which the bank is to pay to the treasury $200,000 a year, for the six years, as compensation for the benefits of this continuance of its charter. This provision is adopted from the bill of 1832. For one, I should have been willing that a fixed percentage should have been paid, instead of this *bonus*, to be divided among the States, according to numbers; but others objected to this, and I have sought to avoid all new causes of difference.

The next section authorizes Congress to restrain the bank from issuing notes of less denomination than twenty dollars, if it shall see fit so to do, any time after March, 1836. This, too, is borrowed from the bill of 1832, and its object was fully discussed on that occasion. That object is to get rid of the circulation of all notes under five dollars, and, by so doing, to extend the specie basis of our circulation. When the States shall direct their own banks to issue no notes less than five dollars, then it is proposed that Congress shall direct the Bank of the United States to issue no notes below twenty dollars. The state of our currency will then be, as I explained the other day, that, up to five dollars, it will be silver and gold; above five dollars, it may be silver and gold, and notes of State banks; and above twenty dollars, silver and gold, and notes of State banks, and notes of the Bank of the United States. This greater use of silver and gold for common purposes and small payments, I have thought to be a desirable object, as I have often before said.

The next section looks to the winding up of the affairs of the bank; and it provides that, at any time within the last three

years of its continuance, its directors may divide among the stockholders any portion of the capital which they may have withdrawn from active operation. The remaining sections are only such as are formal and necessary; one continues the acts of Congress connected with the bank, such as those providing for forging its notes, and the other requires the acceptance of this bill by the bank in order to give it validity and effect.

Such, Mr. President, are the provisions of this bill. They are few and simple.

1. The bank is to be continued for six years.

2. The deposits are to be restored after the 1st of July.

3. Congress is to be at perfect liberty to create any new bank, at any time after March, 1836.

4. The directors, in order to wind up their concerns, may, three years before the six years expire, begin to divide the capital among the stockholders.

Mr. President, this is the measure which I propose; and it is my settled belief, that, if we cannot carry this, we can carry nothing.

I have thus, Sir, stated my opinions, and discharged my duty. I see the country laboring and struggling and panting under an enormous political evil. I propose a remedy which I am sure will produce relief, if it be adopted, and which seems to me most likely to obtain support. And now, Sir, I put it to every member of Congress, how he can resist this measure, unless by proposing another and a better. Who, among the agents and servants of the people assembled in these houses, is prepared, in the present distressed state of the country, to say that he will oppose every thing, and propose nothing? For one, Sir, I can only say, that I have been driven to this proposition by an irresistible impulse of obligation to the country. If I had been suddenly called to my great reckoning in another world, I should have felt that one duty was neglected, if I had had no measure to recommend, no expedient to propose, no hope to hold out to this suffering community.

As to the success of this bill, Sir, or any other, I have only to repeat what I have so often said, that every thing rests with the people themselves. In the distracted state of the public councils, any measure of relief can only be obtained by the decisive demand of the public will.

By an exercise of executive power, which I believe to be illegal, and which all must see to have been injurious, by an unrelenting adherence to the measure which has thus been adopted, in spite of all consequences, and by the force of those motives which influence men to support the measure, though they entirely disapprove it, the country is brought to a condition such as it never before witnessed, and which it cannot long bear. But it is not a condition for despair. Nothing will ruin the country, if the people themselves will undertake its safety; and nothing can save it, if *they* leave that safety in any hands but their own.

Would to God, Sir, that I could draw around me all these twelve millions of people! Would to God that I could speak audibly to every independent elector in the whole land! I would not say to them, vainly and arrogantly, that their safety and happiness require the adoption of any measure recommended by *me*. But I would say to them, with the sincerest conviction that ever animated man's heart, that their safety and happiness *do* require their own prompt and patriotic attention to the public concerns, their own honest devotion to the welfare of the state. I would say to them, that neither this measure, nor any measure, can be adopted, except by the cogent and persisting action of popular opinion. I would say to them, that the public revenues cannot be restored to their accustomed custody, that they cannot be again placed under the control of Congress, that the violation of law cannot be redressed, but by manifestations, not to be mistaken, of public sentiment. I would say to them, that the Constitution and the laws, their own rights and their own happiness, all depend on themselves; and if they esteem these of any value, if they were not too dearly bought by the blood of their fathers, if they be an inheritance fit to be transmitted to their posterity, I would beseech them, I would beseech them, to come now to their salvation.

THE PRESIDENTIAL PROTEST.*

Mr. President. — I feel the magnitude of this question. We are coming to a vote which cannot fail to produce important effects on the character of the Senate and the character of the government.

Unhappily, Sir, the Senate finds itself involved in a controversy with the President of the United States: a man who has rendered most distinguished services to his country, who has hitherto possessed a degree of popular favor perhaps never exceeded, and whose honesty of motive and integrity of purpose are still admitted by those who maintain that his administration has fallen into lamentable errors.

On some of the interesting questions in regard to which the President and Senate hold opposite opinions, the more popular branch of the legislature concurs with the executive. It is not to be concealed that the Senate is engaged against imposing odds. It can sustain itself only by its own prudence and the justice of its cause. It has no patronage by which to secure friends; it can raise up no advocates through the dispensation of favors, for it has no favors to dispense. Its very constitution, as a body whose members are elected for a long term, is capable of being rendered obnoxious, and is daily made the subject of opprobrious remark. It is already denounced as independent of the people, and aristocratic. Nor is it, like the other house, powerful in its numbers: not being, like that, so large as that its members come constantly in direct and extensive contact with the whole people. Under these disadvantages, Sir, which,

* A Speech delivered in the Senate of the United States, on the 7th of [illegible] 1834, on the President's Protest.

See note to page 47.

we may be assured, will be pressed and urged to the utmost length, there is but one course for us. The Senate must stand on its rendered reasons. It must put forth the grounds of its proceedings, and it must then rely on the intelligence and patriotism of the people to carry it through the contest.

As an individual member of the Senate, it gives me great pain to be engaged in such a conflict with the executive government. The occurrences of the last session are fresh in the recollection of all of us; and having felt it to be my duty, at that time, to give my cordial support to highly important measures of the administration, I ardently hoped that nothing might occur to place me afterwards in an attitude of opposition. In all respects, and in every way, it would have been far more agreeable to me to find nothing in the measures of the executive government which I could not cheerfully support. The present occasion of difference has not been sought or made by me. It is thrust upon me, in opposition to strong opinions and wishes, on my part not concealed. The interference with the public deposits dispelled all hope of continued concurrence with the administration, and was a measure so uncalled for, so unnecessary, and, in my judgment, so illegal and indefensible, that, with whatever reluctance it might be opposed by me, opposition was unavoidable.

The paper before us has grown out of this interference. It is a paper which cannot be treated with indifference. The doctrines which it advances, the circumstances which have attended its transmission to the Senate, and the manner in which the Senate may now dispose of it, will form a memorable era in the history of the government. We are either to enter it on our journals, concur in its sentiments, and submit to its rebuke, or we must answer it, with the respect due to the chief magistrate, but with such animadversion on its doctrines as they deserve, and with the firmness imposed upon us by our public duties.

I shall proceed, then, Sir, to consider the circumstances which gave rise to this Protest; to examine the principles which it attempts to establish; and to compare those principles with the Constitution and the laws.

On the 28th day of March, the Senate adopted a resolution declaring that, "in the late executive proceedings in relation to the public revenue, the President had assumed a power not conferred by the Constitution and laws, but in derogation of both." In that resolution I concurred.

It is not a direct question, now again before us, whether the President really had assumed such illegal power; that point is decided, so far as the Senate ever can decide it. But the Protest denies that, supposing the President to have assumed such illegal power, the Senate could properly pass the resolution; or, what is the same thing, it denies that the Senate could, in this way, express any opinion about it. It denies that the Senate has any right, by resolution, in this or any other case, to express disapprobation of the President's conduct, let that conduct be what it may; and this, one of the leading doctrines of the Protest, I propose to consider. But as I concurred in the resolution of the 28th of March, and did not trouble the Senate, at that time, with any statement of my own reasons, I will avail myself of this opportunity to explain, shortly, what those reasons were.

In the first place, then, I have to say, that I did not vote for the resolution on the mere ground of the removal of Mr. Duane from the office of Secretary of the Treasury. Although I disapprove of the removal altogether, yet the power of removal does exist in the President, according to the established construction of the Constitution; and therefore, although in a particular case it may be abused, and, in my opinion, was abused in this case, yet its exercise cannot be justly said to be an assumption or usurpation. We must all agree that Mr. Duane is out of office. He has, therefore, been removed by a power constitutionally competent to remove him, whatever may be thought of the exercise of that power under the circumstances of the case.

If, then, the act of removing the Secretary be not the assumption of power which the resolution declares, in what is that assumption found? Before giving a precise answer to this inquiry, allow me to recur to some of the principal previous events.

At the end of the last session of Congress, the public moneys of the United States were still in their proper place. That place was fixed by the law of the land, and no power of change was conferred on any other human being than the Secretary of the Treasury. On him the power of change was conferred, to be exercised by himself, if emergency should arise, and to be exercised for reasons which he was bound to lay before Con-

gress. No other officer of the government had the slightest pretence of authority to lay his hand on these moneys for the purpose of changing the place of their custody. All the other heads of departments together could not touch them. The President could not touch them. The power of change was a trust confided to the discretion of the Secretary, and to his discretion alone. The President had no more authority to take upon himself this duty, thus assigned expressly by law to the Secretary, than he had to make the annual report to Congress, or the annual commercial statements, or to perform any other service which the law specially requires of the Secretary. He might just as well sign the warrants for moneys, in the ordinary daily disbursements of government, instead of the Secretary. The statute had assigned the especial duty of removing the deposits, if removed at all, to the Secretary of the Treasury, and to him alone. The consideration of the propriety or necessity of removal must be the consideration of the Secretary; the decision to remove, his decision; and the act of removal, his act.

Now, Sir, on the 18th day of September last, a resolution was taken to remove these deposits from their legislative, that is to say, their legal custody. *Whose resolution was this?* On the 1st of October, they were removed. *By whose power was this done?* The papers necessary to accomplish the removal (that is, the orders and drafts) are, it is true, signed by the Secretary. The President's name is not subscribed to them; nor does the Secretary, in any of them, recite or declare that he does the act by direction of the President, or on the President's responsibility. In form, the whole proceeding is the proceeding of the Secretary, and, as such, had the legal effect. The deposits were removed. But whose act was it, in truth and reality? Whose will accomplished it? On whose responsibility was it adopted?

These questions are all explicitly answered by the President himself, in the paper, under his own hand, read to the Cabinet on the 18th of September, and published by his authority. In this paper the President declares, in so many words, that he begs his Cabinet to consider the proposed measure as his own; that its responsibility has been assumed by him; and that he names the first day of October as a period proper for its execution.

Now, Sir, it is precisely this which I deem an assumption of power not conferred by the Constitution and laws. I think the law did not give this authority to the President, nor impose on him the responsibility of its exercise. It is evident that, in this removal, the Secretary was in reality nothing but the scribe; he was the pen in the President's hand, and no more. Nothing depended on his discretion, his judgment, or his responsibility. The removal, indeed, has been admitted and defended in the Senate, as the direct act of the President himself. This, Sir, is what I call assumption of power. If the President had issued an order for the removal of the deposits in his own name, and under his own hand, it would have been an illegal order, and the bank would not have been at liberty to obey it. For the same reason, if the Secretary's order had recited that it was issued by the President's direction, and on the President's authority, it would have shown on its face that it was illegal and invalid. No one can doubt that. The act of removal, to be lawful, must be the *bonâ fide* act of the Secretary; *his* judgment, the result of *his* deliberations, the volition of *his* mind. All are able to see the difference between the power to remove the Secretary from office, and the power to control him, in all or any of his duties, while in office. The law charges the officer, whoever he may be, with the performance of certain duties. The President, with the consent of the Senate, appoints an individual to be such officer; and this individual he may remove, if he so please; but, until removed, he is the officer, and remains charged with the duties of his station, duties which nobody else can perform, and for the neglect or violation of which he is liable to be impeached.

The distinction is visible and broad between the power of removal and the power to control an officer not removed. The President, it is true, may terminate his political life; but he cannot control his powers and functions, and act upon him as a mere machine, while he is allowed to live. The power of control and direction, nowhere given, certainly, by any express provision of the Constitution or laws, is derived, by those who maintain it, from the right of removal; that is to say, it is a constructive power; it has no express warrant in the Constitution. A very important power, then, is raised by construction in the first place; and being thus raised, it becomes a fountain out of

which other important powers, raised also by construction, are to be supplied. There is no little danger that such a mode of reasoning may be carried too far. It cannot be maintained that the power of direct control necessarily flows from the power of removal. Suppose it had been decided in 1789, when the question was debated, that the President does not possess the power of removal; will it be contended, that, in that case, his right of interference with the acts and duties of executive officers would be less than it now is? The reason of the thing would seem to be the other way. If the President may remove an incumbent when he becomes satisfied of his unfaithfulness and incapacity, there would appear to be less necessity to give him also a right of control, than there would be if he could not remove him.

We may try this question by supposing it to arise in a judicial proceeding. If the Secretary of the Treasury were impeached for removing the deposits, could he justify himself by saying that he did it by the President's direction? If he could, then no executive officer could ever be impeached, who obeys the President; and the whole notion of making such officers impeachable at all would be farcical. If he could not so justify himself (and all will allow he could not), the reason can only be that the act of removal is his own act; the power, a power confided to him, for the just exercise of which the law looks to his discretion, his honesty, and his direct responsibility.

Now, Sir, the President wishes the world to understand that he himself decided on the question of the removal of the deposits; that he took the whole responsibility of the measure upon himself; that he wished it to be considered *his own act;* that he not only himself decided that the thing should be done, but regulated its details also, and named the day for carrying it into effect.

I have always entertained a very erroneous view of the partition of powers, and of the true nature of official responsibility under our Constitution, if this be not a plain case of the assumption of power.

The legislature had fixed a place, by law, for the keeping of the public money. They had, at the same time and by the same law, created and conferred a power of removal, to be exercised contingently. This power they had vested in the Secretary, by express words. The law did not say that the deposits should

be made in the bank, unless the President should order otherwise; but it did say that they should be made there, unless the Secretary of the Treasury should order otherwise. I put it to the plain sense and common candor of all men, whether the discretion thus to be exercised over the subject was not the Secretary's own personal discretion; and whether, therefore, the interposition of the authority of another, acting directly and conclusively on the subject, deciding the whole question, even in its particulars and details, be not an assumption of power?

The Senate regarded this interposition as an encroachment by the executive on other branches of the government; as an interference with the legislative disposition of the public treasure. It was strongly and forcibly urged, yesterday, by the honorable member from South Carolina, that the true and only mode of preserving any balance of power, in mixed governments, is to keep an exact balance. This is very true, and to this end encroachment must be resisted at the first step. The question is, therefore, whether, upon the true principles of the Constitution, this exercise of power by the President can be justified. Whether the consequences be prejudicial or not, if there be an illegal exercise of power, it is to be resisted in the proper manner. Even if no harm or inconvenience result from transgressing the boundary, the intrusion is not to be suffered to pass unnoticed. Every encroachment, great or small, is important enough to awaken the attention of those who are intrusted with the preservation of a constitutional government. We are not to wait till great public mischiefs come, till the government is overthrown, or liberty itself put into extreme jeopardy. We should not be worthy sons of our fathers were we so to regard great questions affecting the general freedom. Those fathers accomplished the Revolution on a strict question of principle. The Parliament of Great Britain asserted a right to tax the Colonies in all cases whatsoever; and it was precisely on this question that they made the Revolution turn. The amount of taxation was trifling, but the claim itself was inconsistent with liberty; and that was, in their eyes, enough. It was against the recital of an act of Parliament, rather than against any suffering under its enactments, that they took up arms. They went to war against a preamble. They fought seven years against a declaration. They poured out their treasures and their blood like water, in a con-

test against an assertion which those less sagacious and not so well schooled in the principles of civil liberty would have regarded as barren phraseology, or mere parade of words. They saw in the claim of the British Parliament a seminal principle of mischief, the germ of unjust power; they detected it, dragged it forth from underneath its plausible disguises, struck at it; nor did it elude either their steady eye or their well-directed blow till they had extirpated and destroyed it, to the smallest fibre. On this question of principle, while actual suffering was yet afar off, they raised their flag against a power, to which, for purposes of foreign conquest and subjugation, Rome, in the height of her glory, is not to be compared; a power which has dotted over the surface of the whole globe with her possessions and military posts, whose morning drum-beat, following the sun, and keeping company with the hours, circles the earth with one continuous and unbroken strain of the martial airs of England.

The necessity of holding strictly to the principle upon which free governments are constructed, and to those precise lines which fix the partitions of power between different branches, is as plain, if not as cogent, as that of resisting, as our fathers did, the strides of the parent country against the rights of the Colonies; because, whether the power which exceeds its just limits be foreign or domestic, whether it be the encroachment of all branches on the rights of the people, or that of one branch on the rights of others, in either case the balanced and well-adjusted machinery of free government is disturbed, and, if the derangement go on, the whole system must fall.

But the case before us is not a case of merely theoretic infringement; nor is it one of trifling importance. Far otherwise. It respects one of the highest and most important of all the powers of government; that is to say, the custody and control of the public money. The act of removing the deposits, which I now consider as the President's act, and which his friends on this floor defend as his act, took the national purse from beneath the security and guardianship of the law, and disposed of its contents, in parcels, in such places of deposit as he chose to select. At this very moment, every dollar of the public treasure is subject, so far as respects its custody and safe-keeping, to his unlimited control. We know not where it is to-day; still less do we know where it may be to-morrow.

But, Mr. President, this is not all. There is another part of the case, which has not been so much discussed, but which appears to me to be still more indefensible in its character. It is something which may well teach us the tendency of power to move forward, with accelerated pace, if it be allowed to take the first step. The Bank of the United States, in addition to the services rendered to the treasury, gave for its charter, and for the use of the public deposits, a *bonus* or outright sum of one million and a half of dollars. This sum was paid by the bank into the treasury soon after the commencement of its charter. In the act which passed both houses for renewing the charter, in 1832, it was provided that the bank, for the same consideration, should pay two hundred thousand dollars a year during the period for which it was proposed to renew it. A similar provision is in the bill which I asked leave to introduce some weeks ago. Now, Sir, this shows that the custody of the deposits is a benefit for which a bank may well afford to pay a large annual sum. The banks which now hold the deposits pay nothing to the public; they give no *bonus*, they pay no annuity. But this loss of so much money is not the worst part of the case, nor that which ought most to alarm us. Although they pay nothing to the public, they do pay, nevertheless, such sums, and for such uses, as may be agreed upon between themselves and the executive government. We are officially informed that an officer is appointed by the Secretary of the Treasury to inspect or superintend these selected banks; and this officer is compensated by a salary fixed by the executive, agreed to by the banks, and paid by them. I ask, Sir, if there can be a more irregular or a more illegal transaction than this? Whose money is it out of which this salary is paid? Is it not money justly due to the United States, and paid, because it is so due, for the advantage of holding the deposits? If a dollar is received on that account, is not its only true destination into the general treasury of the government? And who has authority, without law, to create an office, to fix a salary, and to pay that salary out of this money? Here is an inspector or supervisor of the deposit banks. But what law has provided for such an officer? What commission has he received? Who concurred in his appointment? What oath does he take? How is he to be punished or impeached if he colludes with any of these banks to embezzle the public money

or defraud the government? The value of the use of this public money to the deposit banks is probably two hundred thousand dollars a year; or, if less than that, it is yet, certainly, a very great sum. May the President appoint whatever officers he pleases, with whatever duties he pleases, and pay them as much as he pleases, out of the moneys thus paid by the banks, for the sake of having the deposits?

Mr. President, the executive claim of power is exactly this, that the President may keep the money of the public in whatever banks he chooses, on whatever terms he chooses, and apply the sums which these banks are willing to pay for its use to whatever purposes he chooses. These sums are not to come into the general treasury. They are to be appropriated before they get there; they are never to be brought under the control of Congress; they are to be paid to officers and agents not known to the law, not nominated to the Senate, and responsible to nobody but the executive itself. I ask gentlemen if all this be lawful. Are they prepared to defend it? Will they stand up and justify it? In my opinion, Sir, it is a clear and most dangerous assumption of power. It is the creation of office without law; the appointment to office without consulting the Senate; the establishment of a salary without law; and the payment of that salary out of a fund which itself is derived from the use of the public treasures. This, Sir, is my other reason for concurring in the vote of the 28th of March; and on these grounds I leave the propriety of that vote, so far as I am concerned with it, to be judged of by the country.

But, Sir, the President denies the power of the Senate to pass any such resolution, on any ground whatever. Suppose the declaration contained in the resolution to be true; suppose the President had, in fact, assumed powers not granted to him; does the Senate possess the right to declare its opinion, affirming this fact, or does it not? I maintain that the Senate does possess such a power; the President denies it.

Mr. President, we need not look far, nor search deep, for the foundation of this right in the Senate. It is close at hand, and clearly visible. In the first place, it is the right of self-defence. In the second place, it is a right founded on the duty of representative bodies, in a free government, to defend the public liberty against encroachment. We must presume that the Senate

honestly entertained the opinion expressed in the resolution of the 28th of March; and, entertaining that opinion, its right to express it is but the necessary consequence of its right to defend its own constitutional authority, as one branch of the government. This is its clear right, and this, too, is its imperative duty.

If one or both the other branches of the government happen to do that which appears to us inconsistent with the constitutional rights of the Senate, will any one say that the Senate is yet bound to be passive, and to be silent? to do nothing, and to say nothing? Or, if one branch appears to encroach on the rights of the other two, have these two no power of remonstrance, complaint, or resistance? Sir, the question may be put in a still more striking form. Has the Senate a right *to have an opinion* in a case of this kind? If it may have an opinion, how is that opinion to be ascertained but by resolution and vote? The objection must go the whole length; it must maintain that the Senate has not only no right to express opinions, but no right to form opinions, on the conduct of the executive government, though in matters intimately affecting the powers and duties of the Senate itself. It is not possible, Sir, that such a doctrine can be maintained for a single moment. All political bodies resist what they deem encroachments by resolutions expressive of their sentiments, and their purpose to resist such encroachments. When such a resolution is presented for its consideration, the question is, whether it be true; not whether the body has authority to pass it, admitting it to be true. The Senate, like other public bodies, is perfectly justifiable in defending, in this mode, either its legislative or executive authority. The usages of Parliament, the practice in our State legislatures and assemblies, both before and since the Revolution, and precedents in the Senate itself, fully maintain this right. The case of the Panama mission is in point. In that case, Mr. Branch, from North Carolina, introduced a resolution, which, after reciting that the President, in his annual message and in his communication to the Senate, had asserted that he possessed an authority to make certain appointments, *although the appointments had not been made*, went on to declare that "*a silent acquiescence on the part of this body, may, at some future time, be drawn into dangerous precedent*"; and to resolve, therefore, that the President does not possess the right or power said to be

claimed by him. This resolution was discussed, and finally laid on the table. But the question discussed was, whether the resolution was correct, in fact and principle; not whether the Senate had any right to pass such resolution. So far as I remember, no one pretended that, if the President had exceeded his authority, the Senate might not so declare by resolution. No one ventured to contend that, whether the rights of the Senate were invaded or not, the Senate must hold its peace.

The Protest labors strenuously to show that the Senate adopted the resolution of the 28th of March, under its *judicial* authority. The reason of this attempt is obvious enough. If the Senate, in its judicial character, has been trying the President, then he has not had a regular and formal trial; and, on that ground, it is hoped the public sympathy may be moved. But the Senate has acted not in its judicial, but in its legislative capacity. As a legislative body, it has defended its own just authority, and the authority of the other branch of the legislature. Whatever attacks our own rights and privileges, or whatever encroaches on the power of both houses, we may oppose and resist, by declaration, resolution, or other similar proceedings. If we look to the books of precedents, if we examine the journals of legislative bodies, we find everywhere instances of such proceedings.

It is to be observed, Sir, that the Protest imposes silence on the House of Representatives as well as on the Senate. It declares that no power is conferred on either branch of the legislature, to consider or decide upon official acts of the executive, for the purpose of censure, and without a view to legislation or impeachment. This, I think, Sir, is pretty high-toned pretension. According to this doctrine, neither house could assert its own rights, however the executive might assail them; neither house could point out the danger to the people, however fast executive encroachment might be extending itself, or whatever danger it might threaten to the public liberties. If the two houses of Congress may not express an opinion of executive conduct by resolution, there is the same reason why they should not express it in any other form, or by any other mode of proceeding. Indeed, the Protest limits both houses, expressly, to the case of impeachment. If the House of Representatives are not about to impeach the President, they have nothing to say of his

measures or of his conduct; and unless the Senate are engaged in trying an impeachment, their mouths, too, are stopped. It is the practice of the President to send us an annual message, in which he rehearses the general proceedings of the executive for the past year. This message we refer to our committees for consideration. But, according to the doctrine of the Protest, they can express no opinion upon any executive proceeding upon which it gives information. Suppose the President had told us, in his last annual message, what he had previously told us in his cabinet paper, that the removal of the deposits was *his* act, done on *his* responsibility; and that the Secretary of the Treasury had exercised no discretion, formed no judgment, presumed to have no opinion whatever, on the subject. This part of the message would have been referred to the committee on finance; but what could they say? They think it shows a plain violation of the Constitution and the laws; but the President is not impeached; therefore they can express no censure. They think it a direct invasion of legislative power, but they must not say so. They may, indeed, commend, if they can. The grateful business of praise is lawful to them; but if, instead of commendation and applause, they find cause for disapprobation, censure, or alarm, the Protest enjoins upon them absolute silence.

Formerly, Sir, it was a practice for the President to meet both houses, at the opening of the session, and deliver a speech, as is still the usage of some of the State legislatures. To this speech there was an answer from each house, and those answers expressed, freely, the sentiments of the house upon all the merits and faults of the administration. The discussion of the topics contained in the speech, and the debate on the answers, usually drew out the whole force of parties, and lasted sometimes a week. President Washington's conduct, in every year of his administration, was thus freely and publicly canvassed. He did not complain of it; he did not doubt that both houses had a perfect right to comment, with the utmost latitude, consistent with decorum, upon all his measures. Answers, or amendments to answers, were not unfrequently proposed, very hostile to his own course of public policy, if not sometimes bordering on disrespect. And when they did express respect and regard, there were votes ready to be recorded against the expression of those

sentiments. To all this President Washington took no exception; for he well knew that these, and similar proceedings, belonged to the power of popular bodies. But if the President were now to meet us with a speech, and should inform us of measures, adopted by himself in the recess, which should appear to us the most plain, palpable, and dangerous violations of the Constitution, we must, nevertheless, either keep respectful silence, or fill our answer merely with courtly phrases of approbation.

Mr. President, I know not who wrote this Protest, but I confess I am astonished, truly astonished, as well at the want of knowledge which it displays of constitutional law, as at the high and dangerous pretensions which it puts forth. Neither branch of the legislature can express censure upon the President's conduct! Suppose, Sir, that we should see him enlisting troops and raising an army, can we say nothing, and do nothing? Suppose he were to declare war against a foreign power, and put the army and the fleet in action; are we still to be silent? Suppose we should see him borrowing money on the credit of the United States; are we yet to wait for impeachment? Indeed, Sir, in regard to this borrowing money on the credit of the United States, I wish to call the attention of the Senate, not only to what might happen, but to what has actually happened. We are informed that the Post-Office Department, a department over which the President claims the same control as over the rest, *has actually borrowed near half a million of money on the credit of the United States.*

Mr. President, the first power granted to Congress by the Constitution is the power to lay taxes; the second, the power to borrow money on the credit of the United States. Now, Sir, where does the executive find its authority, in or through any department, to borrow money without authority of Congress? This proceeding appears to me wholly illegal, and reprehensible in a very high degree. It may be said that it is not true that this money is borrowed on the credit of the United States, but that it is borrowed on the credit of the Post-Office Department. But that would be mere evasion. The department is but a name. It is an office, and nothing more. The banks have not lent this money to any officer. If Congress should abolish the whole department to-morrow, would the banks not expect the

United States to replace this borrowed money? The money, then, is borrowed on the credit of the United States, an act which Congress alone is competent to authorize. If the Post-Office Department may borrow money, so may the War Department and the Navy Department. If half a million may be borrowed, ten millions may be borrowed. What, then, if this transaction shall be justified, is to hinder the executive from borrowing money to maintain fleets and armies, or for any other purpose, at his pleasure, without any authority of law? Yet even this, according to the doctrine of the Protest, we have no right to complain of. We have no right to declare that an executive department has violated the Constitution and broken the law, by borrowing money on the credit of the United States. Nor could we make a similar declaration, if we were to see the executive, by means of this borrowed money, enlisting armies and equipping fleets. And yet, Sir, the President has found no difficulty, heretofore, in expressing his opinions, *in a paper not called for by the exercise of any official duty*, upon the conduct and proceedings of the two houses of Congress. At the commencement of this session, he sent us a message, commenting on the land bill which the two houses passed at the end of the last session. That bill he had not approved, nor had he returned it with objections. Congress was dissolved; and the bill, therefore, was completely dead, and could not be revived. No communication from him could have the least possible effect as an official act. Yet he saw fit to send a message on the subject, and in that message he very freely declares his opinion that the bill which had passed both houses *began with an entire subversion of every one of the compacts by which the United States became possessed of their Western domain;* that one of its provisions *was in direct and undisguised violation of the pledge given by Congress to the States;* that the Constitution provides that these compacts shall be untouched by the legislative power, which can only make needful rules and regulations; and that all beyond that is *an assumption of undelegated power.*

These are the terms in which the President speaks of an act of the two houses; not in an official paper, not in a communication which it was necessary for him to make to them; but in a message, adopted only as a mode through which to make public these opinions. After this, it would seem too late to enjoin on

the houses of Congress a total forbearance from all comment on the measures of the executive.

Not only is it the right of both houses, or of either, to resist, by vote, declaration, or resolution, whatever it may deem an encroachment of executive power, but it is also undoubtedly the right of either house to oppose, in like manner, any encroachment by the other. The two houses have each its own appropriate powers and authorities, which it is bound to preserve. They have, too, different constituents. The members of the Senate are representatives of States; and it is in the Senate alone that the four-and-twenty States, as political bodies, have a direct influence in the legislative and executive powers of this government. He is a strange advocate of State rights, who maintains that this body, thus representing the States, and thus being the strictly federal branch of the legislature, may not assert and maintain all and singular its own powers and privileges, against either or both of the other branches.

If any thing be done or threatened derogatory to the rights of the States, as secured by the organization of the Senate, may we not lift up our voices against it? Suppose the House of Representatives should vote that the Senate ought not to propose amendments to revenue bills; would it be the duty of the Senate to take no notice of such proceeding? Or, if we were to see the President issuing commissions to office to persons who had never been nominated to the Senate, are we not to remonstrate?

Sir, there is no end of cases, no end of illustrations. The doctrines of the Protest, in this respect, cannot stand the slightest scrutiny; they are blown away by the first breath of discussion.

And yet, Sir, it is easy to perceive why this right of declaring its sentiments respecting the conduct of the executive is denied to either house, in its legislative capacity. It is merely that the Senate might be presented in the odious light of *trying* the President, judicially, without regular accusation or hearing. The Protest declares that the President is *charged with a crime, and, without hearing or trial, found guilty and condemned.* This is evidently an attempt to appeal to popular feeling, and to represent the President as unjustly treated and unfairly tried. Sir, it is a false appeal. The President has not been tried at all; he has not been accused; he has not been charged with crime; he has not been condemned. Accusation, trial, and sentence are

terms belonging to judicial proceedings. But the Senate has been engaged in no such proceeding. The resolution of the 28th of March was not an exercise of judicial power, either in form, in substance, or in intent. Every body knows that the Senate can exercise no judicial power until articles of impeachment are brought before it. It is then to proceed by accusation and answer, hearing, trial, and judgment. But there has been no impeachment, no answer, no hearing, no judgment. All that the Senate did was to pass a resolution, in legislative form, declaring its opinion of certain acts of the executive. This resolution imputed no crime; it charged no corrupt motive: it proposed no punishment. It was directed, not against the President personally, but against the act; and that act it declared to be, in its judgment, an assumption of authority not warranted by the Constitution.

It is in vain that the Protest attempts to shift the resolution to the judicial character of the Senate. The case is too plain for such an argument to be plausible. But, in order to lay some foundation for it, the Protest, as I have already said, contends that neither the Senate nor the House of Representatives can express its opinions on the conduct of the President, except in some form connected with impeachment: so that if the power of impeachment did not exist, these two houses, though they be representative bodies, though one of them be filled by the immediate representatives of the people, though they be constituted like other popular and representative bodies, could not utter a syllable, although they saw the executive either trampling on their own rights and privileges, or grasping at absolute authority and dominion over the liberties of the country! Sir, I hardly know how to speak of such claims of impunity for executive encroachment. I am amazed that any American citizen should draw up a paper containing such lofty pretensions: pretensions which would have been met with scorn in England at any time since the Revolution of 1688. A man who should stand up, in either house of the British Parliament, to maintain that the house could not, by vote or resolution, maintain its own rights and privileges, would make even the Tory benches hang their heads for very shame.

There was, indeed, a time when such proceedings were not allowed. Some of the kings of the Stuart race would not

tolerate them. A signal instance of royal displeasure with the proceedings of Parliament occurred in the latter part of the reign of James the First. The House of Commons had spoken, on some occasion, "of its own undoubted rights and privileges." The king thereupon sent them a letter, declaring that *he would not allow that they had any undoubted rights; but that what they enjoyed they might still hold by his own royal grace and permission.* Sir Edward Coke and Mr. Granville were not satisfied with this title to their privileges; and, under their lead, the house entered on its journals a resolution asserting its privileges, *as its own undoubted right*, and manifesting a determination to maintain them as such. This, says the historian, so enraged his Majesty, that he sent for the journal, had it brought into the Council, and there, in the presence of his lords and great officers of state, tore out the offensive resolution with his own royal hand. He then dissolved Parliament, and sent its most refractory members to the Tower. I have no fear, certainly, Sir, that this English example will be followed, on this occasion, to its full extent; nor would I insinuate that any thing outrageous has been thought of, or intended, except outrageous pretensions; but such pretensions I must impute to the author of this Protest, whoever that author may be.

When this and the other house shall lose the freedom of speech and debate; when they shall surrender the rights of publicly and freely canvassing all important measures of the executive; when they shall not be allowed to maintain their own authority and their own privileges by vote, declaration, or resolution, — they will then be no longer free representatives of a free people, but slaves themselves, and fit instruments to make slaves of others.

The Protest, Mr. President, concedes what it doubtless regards as a liberal right of discussion to the people themselves. But its language, even in acknowledging this right of the *people* to discuss the conduct of their servants, is qualified and peculiar. The free people of the United States, it declares, have an undoubted right to discuss the official conduct of the President in such language and form as they may think proper, "subject only to the restraints of truth and justice." But, then, who is to be judge of this truth and justice? Are the people to judge for themselves, or are others to judge for them? The

Protest is here speaking of *political* rights, and not moral rights: and if restraints are imposed on *political* rights, it must follow, of course, that others are to decide whenever the case arises whether these restraints have been violated. It is strange that the writer of the Protest did not perceive that, by using this language, he was pushing the President into a direct avowal of the doctrines of 1798. The text of the Protest and the text of the obnoxious act* of that year are nearly identical.

But, Sir, if the people have a right to discuss the official conduct of the executive, so have their representatives. We have been taught to regard a representative of the people as a sentinel on the watch-tower of liberty. Is he to be blind, though visible danger approaches? Is he to be deaf, though sounds of peril fill the air? Is he to be dumb, while a thousand duties impel him to raise the cry of alarm? Is he not, rather, to catch the lowest whisper which breathes intention or purpose of encroachment on the public liberties, and to give his voice breath and utterance at the first appearance of danger? Is not his eye to traverse the whole horizon with the keen and eager vision of an unhooded hawk, detecting, through all disguises, every enemy advancing, in any form, towards the citadel which he guards? Sir, this watchfulness for public liberty; this duty of foreseeing danger and proclaiming it; this promptitude and boldness in resisting attacks on the Constitution from any quarter; this defence of established landmarks; this fearless resistance of whatever would transcend or remove them, — all belong to the representative character, are interwoven with its very nature. If deprived of them, an active, intelligent, faithful agent of the people will be converted into an unresisting and passive instrument of power. A representative body, which gives up these rights and duties, gives itself up. It is a representative body no longer. It has broken the tie between itself and its constituents, and henceforth is fit only to be regarded as an inert, self-sacrificed mass, from which all appropriate principle of vitality has departed for ever.

I have thus endeavored to vindicate the right of the Senate to pass the resolution of the 28th of March, notwithstanding the denial of that right in the Protest.

* Commonly called the Sedition Act, approved 14th July, 1798.

But there are other sentiments and opinions expressed in the Protest, of the very highest importance, and which demand nothing less than our utmost attention.

The first object of a free people is the preservation of their liberty; and liberty is only to be preserved by maintaining constitutional restraints and just divisions of political power. Nothing is more deceptive or more dangerous than the pretence of a desire to simplify government. The simplest governments are despotisms; the next simplest, limited monarchies; but all republics, all governments of law, must impose numerous limitations and qualifications of authority, and give many positive and many qualified rights. In other words, they must be subject to rule and regulation. This is the very essence of free political institutions. The spirit of liberty is, indeed, a bold and fearless spirit; but it is also a sharp-sighted spirit; it is a cautious, sagacious, discriminating, far-seeing intelligence; it is jealous of encroachment, jealous of power, jealous of man. It demands checks; it seeks for guards; it insists on securities; it intrenches itself behind strong defences, and fortifies itself with all possible care against the assaults of ambition and passion. It does not trust the amiable weaknesses of human nature, and therefore it will not permit power to overstep its prescribed limits, though benevolence, good intent, and patriotic purpose come along with it. Neither does it satisfy itself with flashy and temporary resistance to illegal authority. Far otherwise. It seeks for duration and permanence. It looks before and after; and, building on the experience of ages which are past, it labors diligently for the benefit of ages to come. This is the nature of constitutional liberty; and this is *our* liberty, if we will rightly understand and preserve it. Every free government is necessarily complicated, because all such governments establish restraints, as well on the power of government itself as on that of individuals. If we will abolish the distinction of branches, and have but one branch; if we will abolish jury trials, and leave all to the judge; if we will then ordain that the legislator shall himself be that judge; and if we will place the executive power in the same hands, we may readily simplify government. We may easily bring it to the simplest of all possible forms, a pure despotism. But a separation of departments, so far as practicable, and the preservation of clear lines of division between them, is the fun-

damental idea in the creation of all our constitutions; and, doubtless, the continuance of regulated liberty depends on maintaining these boundaries.

In the progress, Sir, of the governments of the United States, we seem exposed to two classes of dangers or disturbances; one external, the other internal. It may happen that collisions arise between this government and the governments of the States. That case belongs to the first class. A memorable instance of this kind occurred last year. It was my conscientious opinion, on that occasion, that the authority claimed by an individual State* was subversive of the just powers of this government, and, indeed, incompatible with its existence. I gave a hearty coöperation, therefore, to measures which the crisis seemed to require. We have now before us what appears, to my judgment, to be an instance of the latter kind. A contest has arisen between different branches of the same government, interrupting their harmony, and threatening to disturb their balance. It is of the highest importance, therefore, to examine the question carefully, and to decide it justly.

The separation of the powers of government into three departments, though all our constitutions profess to be founded on it, has, nevertheless, never been perfectly established in any government of the world, and perhaps never can be. The general principle is of inestimable value, and the leading lines of distinction sufficiently plain; yet there are powers of so undecided a character, that they do not seem necessarily to range themselves under either head. And most of our constitutions, too, having laid down the general principle, immediately create exceptions. There do not exist, in the general science of government, or the received maxims of political law, such precise definitions as enable us always to say of a given power whether it be legislative, executive, or judicial. And this is one reason, doubtless, why the Constitution, in conferring power on all the departments, proceeds not by general definition, but by specific enumeration. And, again, it grants a power in general terms, but yet, in the same or some other article or section, imposes a limitation or qualification on the grant; and the grant and the limitation must, of course, be construed together. Thus the Constitution says that all legislative power, therein granted,

* South Carolina.

shall be vested in Congress, which Congress shall consist of a Senate and House of Representatives; and yet, in another article, it gives to the President a qualified negative over all acts of Congress. So the Constitution declares that the judicial power shall be vested in one Supreme Court, and such inferior courts as Congress may establish. It gives, nevertheless, in another provision, judicial power to the Senate; and, in like manner, though it declares that the executive power shall be vested in the President, using, in the immediate context, no words of limitation, yet it elsewhere subjects the treaty-making power, and the appointing power, to the concurrence of the Senate. The irresistible inference from these considerations is, that the mere nomination of a department, as one of the three great and commonly acknowledged departments of government, does not confer on that department any power at all. Notwithstanding the departments are called the legislative, the executive, and the judicial, we must yet look into the provisions of the Constitution itself, in order to learn, first, what powers the Constitution regards as legislative, executive, and judicial; and, in the next place, what portions or quantities of these powers are conferred on the respective departments; because no one will contend that *all* legislative power belongs to Congress, *all* executive power to the President, or *all* judicial power to the courts of the United States.

The first three articles of the Constitution, as all know, are taken up in prescribing the organization, and enumerating the powers, of the three departments. The first article treats of the legislature, and its first section is, "All legislative power, *herein granted*, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." The second article treats of the executive power, and its first section declares that "the executive power shall be vested in a President of the United States of America." The third article treats of the judicial power, and its first section declares that "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish."

It is too plain to be doubted, I think, Sir, that these descriptions of the persons or officers in whom the executive and the judicial powers are to be vested no more define the extent of

the grant of those powers, than the words quoted from the first article describe the extent of the legislative grant to Congress. All these several titles, heads of articles, or introductory clauses, with the general declarations which they contain, serve to designate the departments, and to mark the general distribution of powers; but in all the departments, in the executive and judicial as well as in the legislative, it would be unsafe to contend for any specific power under such clauses.

If we look into the State constitutions, we shall find the line of distinction between the departments still less perfectly drawn, although the general principle of the distinction is laid down in most of them, and in some of them in very positive and emphatic terms. In some of these States, notwithstanding the principle of distribution is adopted and sanctioned, the legislature appoints the judges; and in others it appoints both the governor and the judges; and in others, again, it appoints not only the judges, but all other officers.

The inferences which, I think, follow from these views of the subject, are two: first, that the denomination of a department does not fix the limits of the powers conferred on it, nor even their exact nature; and, second (which, indeed, follows from the first), that, in our American governments, the chief executive magistrate does not necessarily, and by force of his general character of supreme executive, possess the appointing power. He may have it, or he may not, according to the particular provisions applicable to each case in the respective constitutions.

The President appears to have taken a different view of this subject. He seems to regard the appointing power as originally and inherently in the executive, and as remaining absolute in his hands, except so far as the Constitution restrains it. This I do not agree to, and I shall have occasion hereafter to examine the question further. I have intended thus far only to insist on the high and indispensable duty of maintaining the division of power *as the Constitution has marked out that division*, and to oppose claims of authority not founded on express grants or necessary implication, but sustained merely by argument or inference from names or denominations given to departments.

Mr. President, the resolutions now before us declare, that the Protest asserts powers as belonging to the President inconsistent with the authority of the two houses of Congress, and incon-

sistent with the Constitution; and that the Protest itself is a breach of privilege. I believe all this to be true.

The doctrines of the Protest are inconsistent with the authority of the two houses, because, in my judgment, they deny the just extent of the law-making power. I take the Protest as it was sent to us, without inquiring how far the subsequent message has modified or explained it. It is singular, indeed, that a paper, so long in preparation, so elaborate in composition, and which is put forth for so high a purpose as the Protest avows, should not be able to stand an hour's discussion before it became evident that it was indispensably necessary to alter or explain its contents. Explained or unexplained, however, the paper contains sentiments which justify us, as I think, in adopting these resolutions.

In the first place, I think the Protest a clear breach of privilege. It is a reproof or rebuke of the Senate, in language hardly respectful, for the exercise of a power clearly belonging to it as a legislative body. It entirely misrepresents the proceedings of the Senate. I find this paragraph in it, among others of a similar tone and character: — "A majority of the Senate, whose interference with the preliminary question has, for the best of all reasons, been studiously excluded, anticipate the action of the House of Representatives, assume not only the function which belongs exclusively to that body, but convert themselves into accusers, witnesses, counsel, and judges, and prejudge the whole case; thus presenting the appalling spectacle, in a free state, of judges going through a labored preparation for an impartial hearing and decision, by a previous *ex parte* investigation and sentence against the supposed offender."

Now, Sir, this paragraph, I am bound to say, is a total misrepresentation of the proceedings of the Senate. A majority of the Senate have not anticipated the House of Representatives; they have not assumed the functions of that body; they have not converted themselves into accusers, witnesses, counsel, or judges; they have made no *ex parte* investigation; they have given no sentence. This paragraph is an elaborate perversion of the whole design and the whole proceedings of the Senate. A Protest, sent to us by the President, against votes which the Senate has an unquestionable right to pass, and containing, too, such a misrepresentation of these votes as this paragraph manifests, is a breach of privilege.

But there is another breach of privilege. The President interferes between the members of the Senate and their constituents, and charges them with acting contrary to the will of those constituents. He says it is his right and duty to look to the journals of the Senate to ascertain who voted for the resolution of the 28th of March, and then to show that individual Senators have, by their votes on that resolution, disobeyed the instructions or violated the known will of the legislatures who appointed them. All this he claims as his right and his duty. And where does he find any such right or any such duty? What right has he to send a message to either house of Congress telling its members that they disobey the will of their constituents? Has any English sovereign since Cromwell's time dared to send such a message to Parliament? Sir, if he can tell us that some of us disobey our constituents, he can tell us that all do so; and if we consent to receive this language from him, there is but one remaining step, and that is, that, since we thus disobey the will of our constituents, he should disperse us and send us home. In my opinion, the first step in this process is as distinct a breach of privilege as the last. If Cromwell's example shall be followed out, it will not be more clear then than it is now that the privileges of the Senate have been violated. There is yet something, Sir, which surpasses all this; and that is, that, after this direct interference, after pointing out those Senators whom he would represent as having disobeyed the known will of their constituents, *he disclaims all design of interfering at all!* Sir, who could be the writer of a message, which, in the first place, makes the President assert such monstrous pretensions, and, in the next line, affront the understanding of the Senate by disavowing all right to do that very thing which he is doing? If there be any thing, Sir, in this message, more likely than the rest of it to move one from his equanimity, it is this disclaimer of all design to interfere with the responsibility of members of the Senate to their constituents, after such interference had already been made, in the same paper, in the most objectionable and offensive form. If it were not for the purpose of telling these Senators that they disobeyed the will of the legislatures of the States they represent, *for what purpose was it* that the Protest has pointed out the four Senators, and paraded against them the sentiments of their legislatures? There can be no other purpose. The Protest says,

indeed, that "these facts belong to the history of these proceedings"! To the history of what proceedings? To any proceeding to which the President was party? To any proceeding to which the Senate was party? Have they any thing to do with the resolution of the 28th of March? But it adds, that these facts *are important to the just development of the principles and interests involved in the proceedings.* All this might be said of any other facts. It is mere words. To what principles, to what interests, are these facts important? They can be important but in one point of view; and that is as proof, or evidence, that the Senators have disobeyed instructions, or acted against the known will of their constituents in disapproving the President's conduct. They have not the slightest bearing in any other way. They do not make the resolution of the Senate more or less true, nor its right to pass it more or less clear. Sir, these proceedings of the legislatures were introduced into this Protest for the very purpose, and no other, of showing that members of the Senate have acted contrary to the will of their constituents. Every man sees and knows this to have been the sole design; and any other pretence is a mockery to our understandings. And this purpose is, in my opinion, an unlawful purpose; it is an unjustifiable intervention between us and our constituents; and is, therefore, a manifest and flagrant breach of privilege.

In the next place, the assertions of the Protest are inconsistent with the just authority of Congress, because they claim for the President a power, independent of Congress, to possess the custody and control of the public treasures. Let this point be accurately examined; and, in order to avoid mistake, I will read the precise words of the Protest.

"The custody of the public property, under such regulations as may be prescribed by legislative authority, has always been considered an appropriate function of the executive department in this and all other governments. In accordance with this principle, every species of property belonging to the United States, (excepting that which is in the use of the several coördinate departments of the government, as means to aid them in performing their appropriate functions,) is in charge of officers appointed by the President, whether it be lands, or buildings, or merchandise, or provisions, or clothing, or arms and munitions of war. The superintendents and keepers of the whole are appointed by the President, and removable at his will.

"Public money is but a species of public property. It cannot be raised by taxation or customs, nor brought into the treasury in any other way except by law; but whenever or howsoever obtained, its custody always has been, and always must be, unless the Constitution be changed, intrusted to the executive department. No officer can be created by Congress, for the purpose of taking charge of it, whose appointment would not, by the Constitution, at once devolve on the President, and who would not be responsible to him for the faithful performance of his duties."

And, in another place, it declares that "Congress cannot, therefore, take out of the hands of the executive department the custody of the public property or money, without an assumption of executive power, and a subversion of the first principles of the Constitution." These, Sir, are propositions which cannot receive too much attention. They affirm, that the custody of the public money constitutionally and necessarily belongs to the executive; and that, until the Constitution is changed, Congress cannot take it out of his hands, nor make any provision for its custody, except by such superintendents and keepers as are appointed by the President and removable at his will. If these assertions be correct, we have, indeed, a singular constitution for a republican government; for we give the executive the control, the custody, and the possession of the public treasury, by original constitutional provision; and when Congress appropriates, it appropriates only what is already in the President's hands.

Sir, I hold these propositions to be sound in neither branch. I maintain that the custody of the public money does not necessarily belong to the executive, under this government; and I hold that Congress may so dispose of it, that it shall be under the superintendence of keepers not appointed by the President, nor removable at his will. I think it competent for Congress to declare, as Congress did declare in the bank charter, that the public deposits should be made in the bank. When in the bank, they were not kept by persons appointed by the President, or removable at his will. He could not change that custody; nor could it be changed at all, but according to provisions made in the law itself. There was, indeed, a provision in the law authorizing the *Secretary* to change the custody. But suppose there had been no such provision; suppose the contingent power had not been given to the Secretary; would it not

have been a lawful enactment? Might not the law have provided that the public moneys should remain in the bank, until Congress itself should otherwise order, leaving no power of removal anywhere else? And if such provision had been made, what power, or custody, or control, would the President have possessed over them? Clearly, none at all. The act of May, 1800, directed custom-house bonds, in places where the bank which was then in existence was situated, or in which it had branches, to be deposited in the bank or its branches for collection, without the reservation to the Secretary, or any body else, of any power of removal. Now, Sir, this was an unconstitutional law, if the Protest, in the part now under consideration, be correct; because it placed the public money in a custody beyond the control of the President, and in the hands of keepers not appointed by him, nor removable at his pleasure. One may readily discern, Sir, the process of reasoning by which the author of the Protest brought himself to the conclusion that Congress could not place the public moneys beyond the President's control. It is all founded on the power of appointment and the power of removal. These powers, it is supposed, must give the President complete control and authority over those who actually hold the money, and therefore must necessarily subject its custody, at all times, to his own individual will. This is the argument.

It is true, that the appointment of all public officers, with some exceptions, is, by the Constitution, given to the President, with the consent of the Senate; and as, in most cases, public property must be held by some officer, its keepers will generally be persons so appointed. But this is only the common, not a necessary consequence, of giving the appointing power to the President and Senate. Congress may still, if it shall so see fit, place the public treasure in the hand of no officer appointed by the President, or removable by him, but in hands quite beyond his control. Subject to one contingency only, it did this very thing by the charter of the present bank; and it did the same thing absolutely, and subject to no contingency, by the law of 1800. The Protest, in the first place, seizes on the fact that all officers must be appointed by the President, or on his nomination; it then assumes the next step, that all officers are, and *must be*, removable at his pleasure; and then, insisting that

public money, like other public property, must be kept by *some public officer*, it thus arrives at the conclusion that it *must* always be in the hands of those who are appointed by the President, and who are removable at his pleasure. And it is very clear that the Protest means to maintain that the *tenure of office cannot be so regulated by law, as that public officers shall not be removable at the pleasure of the President.*

The President considers the right of removal as a fixed, vested, constitutional right, which Congress cannot limit, control, or qualify, until the Constitution shall be altered. This, Sir, is doctrine which I am not prepared to admit. I shall not now discuss the question, whether the law may not place the tenure of office beyond the reach of executive pleasure; but I wish merely to draw the attention of the Senate to the fact, that any such power in Congress is denied by the principles and by the words of the Protest. According to that paper, we live under a constitution by the provisions of which the public treasures are, necessarily and unavoidably, always under executive control; and as the executive may remove all officers, and appoint others, at least temporarily, without the concurrence of the Senate, he may hold those treasures, in the hands of persons appointed by himself alone, in defiance of any law which Congress has passed or can pass. It is to be seen, Sir, how far such claims of power will receive the approbation of the country. It is to be seen whether a construction will be readily adopted which thus places the public purse out of the guardianship of the immediate representatives of the people.

But, Sir, there is, in this paper, something even yet more strange than these extraordinary claims of power. There is a strong disposition, running through the whole Protest, to represent the executive department of this government as the peculiar protector of the public liberty, the chief security on which the people are to rely against the encroachment of other branches of the government. Nothing can be more manifest than this purpose. To this end, the Protest spreads out the President's official oath, reciting all its words in a formal quotation; and yet the oath of members of Congress is exactly equivalent. The President is to swear that he will "preserve, protect, and defend the Constitution"; and members of Congress are to swear that they will "support the Constitution." There are

more words in one oath than the other, but the sense is precisely the same. Why, then, this reference to his official oath, and this ostentatious quotation of it? Would the writer of the Protest argue that the oath itself is any grant of power; or that, because the President is to "preserve, protect, and defend the Constitution," he is, therefore, to use what means he pleases for such preservation, protection, and defence, or any means except those which the Constitution and laws have specifically given him? Such an argument would be absurd; but if the oath be not cited for this preposterous purpose, with what design is it thus displayed on the face of the Protest, unless it be to support the general idea that the maintenance of the Constitution and the preservation of the public liberties are especially confided to the safe discretion, the sure moderation, the paternal guardianship, of executive power? The oath of the President contains three words, all of equal import; that is, that he will *preserve*, *protect*, and *defend* the Constitution. The oath of members of Congress is expressed in shorter phrase; it is, that they will *support* the Constitution. If there be any difference in the meaning of the two oaths, I cannot discern it; and yet the Protest solemnly and formally argues thus: "The duty of defending, so far as in him lies, the integrity of the Constitution, would, indeed, have resulted from the very nature of his office; but by thus expressing it in the official oath or affirmation, which, in this respect, differs from that of every other functionary, the founders of our republic have attested their sense of its importance, and have given to it a peculiar solemnity and force."

Sir, I deny the proposition, and I dispute the proof. I deny that the duty of defending the integrity of the Constitution is, in any peculiar sense, confided to the President; and I deny that the words of his oath furnish any argument to make good that proposition. Be pleased, Sir, to remember *against whom it is* that the President holds it *his* peculiar duty to defend the integrity of the Constitution. It is not against external force; it is not against a foreign foe; no such thing; *but it is against the representatives of the people and the representatives of the States!* It is against these that the founders of our republic have imposed on him the duty of defending the integrity of the Constitution; a duty, he says, of the importance of which they

have attested their sense, and to which they have given peculiar solemnity and force, by expressing it in his official oath!

Let us pause, Sir, and consider this most strange proposition. The President is the chief executive magistrate. He is commander-in-chief of the army and navy; nominates all persons to office; claims a right to remove all at will, and to control all, while yet in office; dispenses all favors; and wields the whole patronage of the government. And the proposition is, that the duty of defending the integrity of the Constitution against the representatives of the States, and against the representatives of the people, *results to him from the very nature of his office;* and that the founders of our republic have given to this duty, thus confided to him, peculiar solemnity and force!

Mr. President, the contest, for ages, has been to rescue Liberty from the grasp of executive power. Whoever has engaged in her sacred cause, from the days of the downfall of those great aristocracies which had stood between the king and the people to the time of our own independence, has struggled for the accomplishment of that single object. On the long list of the champions of human freedom, there is not one name dimmed by the reproach of advocating the extension of executive authority; on the contrary, the uniform and steady purpose of all such champions has been to limit and restrain it. To this end the spirit of liberty, growing more and more enlightened and more and more vigorous from age to age, has been battering, for centuries, against the solid butments of the feudal system. To this end, all that could be gained from the imprudence, snatched from the weakness, or wrung from the necessities of crowned heads, has been carefully gathered up, secured, and hoarded, as the rich treasures, the very jewels of liberty. To this end, popular and representative right has kept up its warfare against prerogative, with various success; sometimes writing the history of a whole age in blood, sometimes witnessing the martyrdom of Sidneys and Russells, often baffled and repulsed, but still gaining on the whole, and holding what it gained with a grasp which nothing but the complete extinction of its own being could compel it to relinquish. At length, the great conquest over executive power, in the leading western states of Europe, has been accomplished. The feudal system, like other stupendous fabrics of past ages, is known only by the rubbish which it has left be-

hind it. Crowned heads have been compelled to submit to the restraints of law, and the PEOPLE, with that intelligence and that spirit which make their voice resistless, have been able to say to prerogative, "Thus far shalt thou come, and no farther." I need hardly say, Sir, that into the full enjoyment of all which Europe has reached only through such slow and painful steps we sprang at once, by the Declaration of Independence, and by the establishment of free representative governments; governments borrowing more or less from the models of other free states, but strengthened, secured, improved in their symmetry, and deepened in their foundation, by those great men of our own country whose names will be as familiar to future times as if they were written on the arch of the sky.

Through all this history of the contest for liberty, executive power has been regarded as a lion which must be caged. So far from being the object of enlightened popular trust, so far from being considered the natural protector of popular right, it has been dreaded, uniformly, always dreaded, as the great source of its danger.

And now, Sir, who is he, so ignorant of the history of liberty, at home and abroad; who is he, yet dwelling in his contemplations among the principles and dogmas of the Middle Ages; who is he, from whose bosom all original infusion of American spirit has become so entirely evaporated and exhaled, that he shall put into the mouth of the President of the United States the doctrine that the defence of liberty *naturally results to* executive power, and is its peculiar duty? Who is he, that, generous and confiding towards power where it is most dangerous, and jealous only of those who can restrain it; who is he, that, reversing the order of the state, and upheaving the base, would poise the pyramid of the political system upon its apex? Who is he, that, overlooking with contempt the guardianship of the representatives of the people, and with equal contempt the higher guardianship of the people themselves; — who is he that declares to us, through the President's lips, that the security for freedom rests in executive authority? Who is he that belies the blood and libels the fame of his own ancestors, by declaring that *they*, with solemnity of form, and force of manner, have invoked the executive power to come to the protection of liberty? Who is he that thus charges them with the

insanity, or the recklessness, of putting the lamb beneath the lion's paw? No, Sir. No, Sir. Our security is in our watchfulness of executive power. It was the constitution of this department which was infinitely the most difficult part in the great work of creating our present government. To give to the executive department such power as should make it useful, and yet not such as should render it dangerous; to make it efficient, independent, and strong, and yet to prevent it from sweeping away every thing by its union of military and civil authority, by the influence of patronage, and office, and favor, — this, indeed, was difficult. They who had the work to do saw the difficulty, and we see it; and if we would maintain our system, we shall act wisely to that end, by preserving every restraint and every guard which the Constitution has provided. And when we, and those who come after us, have done all that we can do, and all that they can do, it will be well for us and for them, if some popular executive, by the power of patronage and party, and the power, too, of that very popularity, shall not hereafter prove an overmatch for all other branches of the government.

I do not wish, Sir, to impair the power of the President, as it stands written down in the Constitution, and as great and good men have hitherto exercised it. In this, as in other respects, I am for the Constitution as it is. But I will not acquiesce in the reversal of all just ideas of government; I will not degrade the character of popular representation; I will not blindly confide, where all experience admonishes me to be jealous; I will not trust executive power, vested in the hands of a single magistrate, to be the guardian of liberty.

Having claimed for the executive the especial guardianship of the Constitution, the Protest proceeds to present a summary view of the powers which are supposed to be conferred on the executive by that instrument. And it is to this part of the message, Sir, that I would, more than to all others, call the particular attention of the Senate. I confess that it was only upon careful reperusal of the paper that I perceived the extent to which its assertions of power reach. I do not speak now of the President's claims of power as opposed to legislative authority, but of his opinions as to his own authority, duty, and responsibility, as connected with all other officers under the government. He

is of opinion that the whole executive power is vested in him, and that he is responsible for its entire exercise; that among the duties imposed on him is that of "taking care that the laws be faithfully executed"; and that, "being thus made responsible for the entire action of the executive department, it is but reasonable that the power of appointing, overseeing, and controlling those who execute the laws, a power in its nature executive, should remain in his hands. It is, therefore, not only his right, but the Constitution makes it his duty, to 'nominate, and, by and with the advice and consent of the Senate, appoint,' all 'officers of the United States whose appointments are not in the Constitution otherwise provided for,' with a proviso that the appointment of inferior officers may be vested in the President alone, in the courts of justice, or in the heads of departments."

The first proposition, then, which the Protest asserts, in regard to the President's powers as executive magistrate, is, that, the general duty being imposed on him by the Constitution, of taking care that the laws be faithfully executed, *he thereby becomes himself responsible for the conduct of every person employed in the government;* "for the entire action," as the paper expresses it, "of the executive department." This, Sir, is very dangerous logic. I reject the inference altogether. No such responsibility, nor any thing like it, follows from the general provision of the Constitution, making it his duty to see the laws executed. If it did, we should have, in fact, but one officer in the whole government. The President would be every body. And the Protest assumes to the President this whole responsibility for every other officer, for the very purpose of making the President every body, of annihilating every thing like independence, responsibility, or *character*, in all other public agents. The whole responsibility is assumed, in order that it may be more plausibly argued that all officers of government are, not agents of the law, but the President's agents, and therefore responsible to him alone. If he be responsible for the conduct of all officers, and they be responsible to him only, then it may be maintained that such officers are but his own agents, his substitutes, his deputies. The first thing to be done, therefore, is to assume the responsibility for all; and this, you will perceive, Sir, is done, in the fullest manner, in the passages which I have

read. Having thus assumed for the President the entire responsibility of the whole government, the Protest advances boldly to its conclusion, and claims, at once, absolute power over all individuals in office, as being merely the President's agents. This is the language: "The whole executive power being vested in the President, who is responsible for its exercise, it is a necessary consequence that he should have a right to employ agents of his own choice to aid him in the performance of his duties, and to discharge them when he is no longer willing to be responsible for their acts."

This, Sir, completes the work. This handsomely rounds off the whole executive system of executive authority. First, the President has the whole responsibility; and then, being thus responsible for all, he has, and ought to have, the whole power. We have heard of political *units*, and our American executive, as here represented, is indeed a *unit*. We have a charmingly simple government! Instead of many officers, in different departments, each having appropriate duties and each responsible for his own duties, we are so fortunate as to have to deal with but one officer. The President carries on the government; all the rest are but sub-contractors. Sir, whatever *name* we give him, we have but ONE EXECUTIVE OFFICER. A Briareus sits in the centre of our system, and with his hundred hands touches every thing, moves every thing, controls every thing. I ask, Sir, Is this republicanism? Is this a government of laws? Is this legal responsibility?

According to the Protest, the very duties which every officer under the government performs are the duties of the President himself. It says that the President has a right to employ *agents* of his *own choice*, to aid HIM in the performance of HIS duties.

Mr. President, if these doctrines be true, it is idle for us any longer to talk about any such thing as a government of laws. We have no government of laws, not even the semblance or shadow of it; we have no legal responsibility. We have an executive, consisting of one person, wielding all official power, and which is, to every effectual purpose, completely *irresponsible*. The President declares that he is "responsible for the entire action of the executive department." Responsible? What does he mean by being "responsible"? Does he mean legal responsibility? Certainly not. No such thing. Legal responsibility

signifies liability to punishment for misconduct or maladministration. But the Protest does not mean that the President is liable to be impeached and punished if a secretary of state should commit treason, if a collector of the customs should be guilty of bribery, or if a treasurer should embezzle the public money. It does not mean, and cannot mean, that he should be answerable for any such crime or such delinquency. What, then, is its notion of that *responsibility* which it says the President is under for all officers, and which authorizes him to consider all officers as his own personal agents? Sir, it is merely responsibility to public opinion. It is a liability to be blamed; it is the chance of becoming unpopular, the danger of losing a reëlection. Nothing else is meant in the world. It is the hazard of failing in any attempt or enterprise of ambition. This is all the responsibility to which the doctrines of the Protest hold the President subject.

It is precisely the *responsibility* under which Cromwell acted when he dispersed Parliament, telling its members, not in so many words, indeed, that they disobeyed the will of their constituents, but telling them that the people were sick of them, and that he drove them out "for the glory of God and the good of the nation." It is precisely the responsibility upon which Bonaparte broke up the popular assembly of France. I do not mean, Sir, certainly, by these illustrations, to insinuate designs of violent usurpation against the President; far from it; but I do mean to maintain, that such responsibility as that with which the Protest clothes him is no legal responsibility, no constitutional responsibility, no republican responsibility, but a mere liability to loss of office, loss of character, and loss of fame, if he shall choose to violate the laws and overturn the liberties of the country. It is such a responsibility as leaves every thing in his discretion and his pleasure.

Sir, it exceeds human belief that any man should put sentiments such as this paper contains into a public communication from the President to the Senate. They are sentiments which give us all one master. The Protest asserts an absolute right to remove all persons from office at pleasure; and for what reason? Because they are incompetent? Because they are incapable? Because they are remiss, negligent, or inattentive? No, Sir; these are not the reasons. But he may discharge

them, one and all, simply because "he is no longer willing to be responsible for their acts"! It insists on an absolute right in the President to *direct and control* every act of every officer of the government, except the judges. It asserts this right of direct *control* over and over again. The President may go into the treasury, among the auditors and comptrollers, and *direct* them how to settle every man's account; what abatements to make from one, what additions to another. He may go into the custom-house, among collectors and appraisers, and may *control* estimates, reductions, and appraisements. It is true that these officers are sworn to discharge the duties of their respective offices honestly and fairly, according to their *own* best abilities; it is true, that many of them are liable to indictment for official misconduct, and others responsible, in suits of individuals, for damages and penalties, if such official misconduct be proved; but notwithstanding all this, the Protest avers that all these officers are but the *President's agents;* that they are but aiding *him* in the discharge of *his* duties; that *he* is responsible for their conduct, and that they are removable at his will and pleasure. And it is under this view of his own authority that the President calls the Secretaries *his* Secretaries, not once only, but repeatedly. After half a century's administration of this government, Sir; — after we have endeavored, by statute upon statute, and by provision following provision, to define and limit official authority; to assign particular duties to particular public servants; to define those duties; to create penalties for their violation; to adjust accurately the responsibility of each agent with his own powers and his own duties; to establish the prevalence of equal rule; to make the law, as far as possible, every thing, and individual will, as far as possible, nothing; — after all this, the astounding assertion rings in our ears, that, throughout the whole range of official agency, in its smallest ramifications as well as in its larger masses, there is but ONE RESPONSIBILITY, ONE DISCRETION, ONE WILL! True indeed is it, Sir, if these sentiments be maintained, — true indeed is it that a President of the United States may well repeat from Napoleon what he repeated from Louis the Fourteenth, "I am the state!"

The argument by which the writer of the Protest endeavors to establish the President's claim to this vast mass of accumulated authority, is founded on the provision of the Constitution,

that the executive power shall be vested in the President. No doubt the executive power is vested in the President; but what and how much executive power, and how limited? To this question I should answer, "Look to the Constitution, and see; examine the particulars of the grant, and learn what that executive power is which is given to the President, either by express words or by necessary implication." But so the writer of this Protest does not reason. He takes these words of the Constitution as being, of themselves, a general original grant of all executive power to the President, subject only to such express limitations as the Constitution prescribes. This is clearly the writer's view of the subject, unless, indeed, he goes behind the Constitution altogether, as some expressions would intimate, to search elsewhere for sources of executive power. Thus, the Protest says that it is not only the *right* of the President, but that the Constitution makes it his *duty*, to appoint persons to office; as if the *right* existed before the Constitution had created the *duty*. It speaks, too, of the power of removal, not as a power *granted* by the Constitution, but expressly as "an original executive power, *left* unchecked by the Constitution." How original? Coming from what source higher than the Constitution? I should be glad to know how the President gets possession of any power by a title earlier, or more *original*, than the grant of the Constitution; or what is meant by an *original* power, which the President possesses, and which the Constitution has *left* unchecked in his hands. The truth is, Sir, most assuredly, that the writer of the Protest, in these passages, was reasoning upon the British constitution, and not upon the Constitution of the United States. Indeed, he professes to found himself on authority drawn from the constitution of England. I will read, Sir, the whole passage. It is this: —

"In strict accordance with this principle, the power of removal, which, like that of appointment, is an original executive power, is left unchecked by the Constitution in relation to all executive officers, for whose conduct the President is responsible; while it is taken from him in relation to judicial officers, for whose acts he is not responsible. *In the government from which many of the fundamental principles of our system are derived, the head of the executive department originally had power to appoint and remove at will all officers, executive and judicial.* It was to take the judges out of this general power of removal, and thus

make them independent of the executive, that the tenure of their offices was changed to good behavior. Nor is it conceivable why they are placed, in our Constitution, upon a tenure different from that of all other officers appointed by the executive, unless it be for the same purpose."

Mr. President, I do most solemnly protest (if I, too, may be permitted to make a protest) against this mode of reasoning. The analogy between the British constitution and ours, in this respect, is not close enough to guide us safely; it can only mislead us. It has entirely misled the writer of the Protest. The President is made to argue, upon this subject, as if he had some right *anterior* to the Constitution, which right is by that instrument checked, in some respects, and in other respects is left unchecked, but which, nevertheless, still derives its being from another source; just as the British king had, in the early ages of the monarchy, an uncontrolled right of appointing and removing all officers at pleasure, but which right, so far as it respects the judges, has since been checked and controlled by act of Parliament; the right being original and inherent, the *check* only imposed by law. Sir, I distrust altogether British precedents, authorities, and analogies, on such questions as this. We are not inquiring how far our Constitution has imposed checks on a preëxisting authority. We are inquiring what extent of power that Constitution has *granted*. The grant of power, the whole source of power, as well as the restrictions and limitations which are imposed on it, is made in and by the Constitution. It has no other origin. And it is this, Sir, which distinguishes our system so very widely and materially from the systems of Europe. *Our* governments are limited governments; limited in their origin, in their very creation; limited, because none but specific powers were ever granted, either to any department of government, or to the whole: *theirs* are limited, whenever limited at all, by reason of restraints imposed at different times on governments originally unlimited and despotic. Our American questions, therefore, must be discussed, reasoned on, decided, and settled, on the appropriate principles of our own constitutions, and not by inapplicable precedents and loose analogies drawn from foreign states.

Mr. President, in one of the French comedies, as you know, in which the dulness and prolixity of legal argument is intended to be severely satirized, while the advocate is tediously groping

among ancient lore having nothing to do with his case, the judge grows impatient, and at last cries out to him to *come down to the flood!* I really wish, Sir, that the writer of this Protest, since he was discussing matters of the highest importance to us as Americans, and which arise out of our own peculiar Constitution, had kept himself, not only on this side the general deluge, but also on this side the Atlantic. I desire that the broad waves of that wide sea should continue to roll between us and the influence of those foreign principles and foreign precedents which he so eagerly adopts.

In asserting power for an American President, I prefer that he should attempt to maintain his assertions on American reasons. I know not, Sir, who the writer was (I wish I did); but whoever he was, it is manifest that he argues this part of his case, throughout, on the principles of the constitution of England. It is true, that, in England, the king is regarded as the original fountain of all honor and all office; and that anciently, indeed, he possessed all political power of every kind. It is true that this mass of authority, in the progress of that government, has been diminished, restrained, and controlled, by charters, by immunities, by grants, and by various modifications, which the friends of liberty have, at different periods, been able to obtain or to impose. All liberty, as we know, all popular privileges, as indeed the word itself imports, were formerly considered as favors and concessions from the monarch. But whenever and wherever civil freedom could get a foothold, and could maintain itself, these favors were turned into rights. Before and during the reigns of the princes of the Stuart family, they were acknowledged only as favors or privileges graciously allowed, although even then, whenever opportunity offered, as in the instance to which I alluded just now, they were contended for as rights; and by the Revolution of 1688 they were acknowledged as the rights of Englishmen, by the prince who then ascended the throne, and as the condition on which he was allowed to sit upon it. But with us there never was a time when we acknowledged original, unrestrained, sovereign power over us. Our constitutions are not made to limit and restrain preëxisting authority. They are the instruments by which the people confer power on their own servants. If I may use a legal phrase, the people are grantors, not grantees. They give to the govern-

ment, and to each branch of it, all the power it possesses, or can possess; and what is not given they retain. In England, before her revolution, and in the rest of Europe since, if we would know the extent of liberty or popular right, we must go to grants, to charters, to allowances, and indulgences. But with us, we go to grants and to constitutions to learn the extent of the powers of government. No political power is more original than the Constitution; none is possessed which is not there granted; and the grant, and the limitations in the grant, are in the same instrument.

The powers, therefore, belonging to any branch of our government, are to be construed and settled, not by remote analogies drawn from other governments, but from the words of the grant itself, in their plain sense and necessary import, and according to an interpretation consistent with our own history and the spirit of our own institutions. I will never agree that a President of the United States holds the whole undivided power of office in his own hands, upon the theory that he is responsible for the entire action of the whole body of those engaged in carrying on the government and executing the laws. Such a responsibility is purely ideal, delusive, and vain. There is, there can be, no substantial responsibility, any further than every individual is answerable, not merely in his reputation, not merely in the opinion of mankind, but *to the law*, for the faithful discharge of his own appropriate duties. Again and again we hear it said that the President is responsible to the American people! that he is responsible to the bar of public opinion! For whatever he does, he assumes accountability to the American people! For whatever he omits, he expects to be brought to the high bar of public opinion! And this is thought enough for a limited, restrained, republican government! an undefined, undefinable, ideal responsibility to the public judgment!

Sir, if all this mean any thing, if it be not empty sound, it means no less than that the President may do any thing and every thing which he may expect to be tolerated in doing. He may go just so far as he thinks it safe to go; and Cromwell and Bonaparte went no farther. I ask again, Sir, Is this legal responsibility? Is this the true nature of a government with written laws and limited powers? And allow me, Sir, to ask, too, if an executive magistrate, while professing to act under the

Constitution, is restrained only by this responsibility to public opinion, what prevents him, on the same responsibility, from proposing a change in that Constitution? Why may he not say, "I am about to introduce new forms, new principles, and a new spirit; I am about to try a political experiment on a great scale; and when I get through with it, I shall be responsible to the American people, I shall be answerable to the bar of public opinion"?

Connected, Sir, with the idea of this airy and unreal responsibility to the public is another sentiment, which of late we hear frequently expressed; and that is, *that the President is the direct representative of the American people.* This is declared in the Protest in so many words. "The President," it says, "*is the direct representative of the American people.*" Now, Sir, this is not the language of the Constitution. The Constitution nowhere calls him the representative of the American people; still less, their direct representative. It could not do so with the least propriety. He is not chosen directly by the people, but by a body of electors, some of whom are chosen by the people, and some of whom are appointed by the State legislatures. Where, then, is the authority for saying that the President is the *direct representative of the people?* The Constitution calls the members of the other house Representatives, and declares that they shall be chosen by the people; and there are no other direct or immediate representatives of the people in this government. The Constitution denominates the President simply the President of the United States; it points out the complex mode of electing him, defines his powers and duties, and imposes limits and restraints on his authority. With these powers and duties, and under these restraints, he becomes, when chosen, President of the United States. That is his character, and the denomination of his office. How is it, then, that, on this official character, thus cautiously created, limited, and defined, he is to engraft another and a very imposing character, namely, the character *of the direct representative of the American people?* I hold this, Sir, to be mere assumption, and dangerous assumption. If he is the representative of *all* the American people, he is the only representative which they all have. Nobody else presumes to represent all the people. And if he may be allowed to consider himself as the SOLE REPRESENTATIVE OF ALL THE AMERICAN

PEOPLE, and is to act under no other responsibility than such as I have already described, then I say, Sir, that the government (I will not say the people) has already a master. I deny the sentiment, therefore, and I protest against the language; neither the sentiment nor the language is to be found in the Constitution of the country; and whoever is not satisfied to describe the powers of the President in the language of the Constitution may be justly suspected of being as little satisfied with the powers themselves. The President is President. His office and his name of office are known, and both are fixed and described by law. Being commander of the army and navy, holding the power of nominating to office and removing from office, and being by these powers the fountain of all patronage and all favor, what does he not become if he be allowed to superadd to all this the character of single representative of the American people? Sir, he becomes what America has not been accustomed to see, what this Constitution has never created, and what I cannot contemplate but with profound alarm. He who may call himself the single representative of a nation, may speak in the name of the nation, may undertake to wield the power of the nation; and who shall gainsay him in whatsoever he chooses to pronounce to be the nation's will?

I will now, Sir, ask leave to recapitulate the general doctrines of this Protest, and to present them together. They are, —

That neither branch of the legislature can take up, or consider, for the purpose of censure, any official act of the President, without some view to legislation or impeachment;

That not only the passage, but the discussion, of the resolution of the Senate of the 28th of March, was unauthorized by the Constitution, and repugnant to its provisions;

That the custody of the public treasury always must be intrusted to the executive; that Congress cannot take it out of his hands, nor place it anywhere except under such superintendents and keepers as are appointed by him, responsible to him, and removable at his will;

That the whole executive power is in the President, and that therefore the duty of defending the integrity of the Constitution *results to him from the very nature of his office;* and that the founders of our republic have attested their sense of the im-

portance of this duty, and, by expressing it in his official oath, have given to it peculiar solemnity and force;

That, as he is to take care that the laws be faithfully executed, he is thereby made responsible for the entire action of the executive department, with the power of appointing, overseeing, and *controlling* those who execute the laws;

That the power of removal from office, like that of appointment, is an *original* executive power, and is *left* in his hands *unchecked* by the Constitution, except in the case of judges; that, being responsible for the exercise of the whole executive power, he has a right to employ agents of his own choice to assist *him* in the performance of *his* duties, and to discharge them when he is no longer willing to be responsible for their acts;

That the Secretaries are *his* Secretaries, and all persons appointed to offices created by law, except the judges, *his* agents, responsible to him, and removable at his pleasure;

And, finally, that he is the *direct representative of the American people.*

These, Sir, are some of the leading propositions contained in the Protest; and if they be true, then the government under which we live is an elective monarchy. It is not yet absolute; there are yet some checks and limitations in the Constitution and laws; but, in its essential and prevailing character, it is an elective monarchy.

Mr. President, I have spoken freely of this Protest, and of the doctrines which it advances; but I have spoken deliberately. On these high questions of constitutional law, respect for my own character, as well as a solemn and profound sense of duty, restrains me from giving utterance to a single sentiment which does not flow from entire conviction. I feel that I am not wrong. I feel that an inborn and inbred love of constitutional liberty, and some study of our political institutions, have not on this occasion misled me. But I have desired to say nothing that should give pain to the chief magistrate personally. I have not sought to fix arrows in his breast; but I believe him mistaken, altogether mistaken, in the sentiments which he has expressed; and I must concur with others in placing on the records of the Senate my disapprobation of those sentiments. On a vote which is to remain so long as any proceeding of the

Senate shall last, and on a question which can never cease to be important while the Constitution of the country endures, I have desired to make public my reasons. They will now be known, and I submit them to the judgment of the present and of after times. Sir, the occasion is full of interest. It cannot pass off without leaving strong impressions on the character of public men. A collision has taken place which I could have most anxiously wished to avoid; but it was not to be shunned. We have not sought this controversy; it has met us, and been forced upon us. In my judgment, the law has been disregarded, and the Constitution transgressed; the fortress of liberty has been assaulted, and circumstances have placed the Senate in the breach; and, although we may perish in it, I know we shall not fly from it. But I am fearless of consequences. We shall hold on, Sir, and hold out, till the people themselves come to its defence. We shall raise the alarm, and maintain the post, till they whose right it is shall decide whether the Senate be a faction, wantonly resisting lawful power, or whether it be opposing, with firmness and patriotism, violations of liberty and inroads upon the Constitution.

THE POST-OFFICE.*

In the Senate, June 27th, 1834, the report of the Committee on the condition of the General Post-Office, and the resolutions with which the report concludes, having been taken up and debated by several gentlemen, Mr. Webster, in conclusion, made the following remarks: —

Mr. President, — Great credit is due to the committee for the labor, diligence, and ability which its members have bestowed on the subject referred to them. They have now made a report of a very serious character, containing explicit charges of maladministration, and accompanied by the evidence on which those charges are founded. Two members of the committee have made a report, or presented a paper, of their own, in which they undertake in some instances to defend, and in others to excuse, the conduct of the Postmaster-General, and other persons employed in the department. Now, Sir, in an affair so complicated, where there are so many charges and so much evidence, the first question to be asked is, Are any of these charges admitted to be true by the friends of the administration, and, if any, which? And, as to the rest of the charges, are they all denied or contradicted, or are some of them, and, if any, which, left without denial or contradiction? The honorable chairman of the committee,† who does not agree in the report of the committee, but who is one of the two members who signed the other paper, called the report of the minority, has addressed the Senate repeatedly on the subject of these charges. Some of them he has objected to; others he has not attempted to rebut; and of others he has said nothing. The

* Remarks made in the Senate of the United States, on the Affairs of the General Post-Office, on the 27th of June, 1834.

† Mr. Grundy.

honorable gentleman is friendly to the administration, and to the head of the Post-Office Department: and it was, therefore, hardly to be expected that he should show great zeal in the prosecution of this inquiry. Yet I think, Sir, we had a right to expect from him, not only his opinion on all the charges, but also some degree of patriotic indignation against lawless acts, which he admits to be lawless. Take, for example, the first resolution of the committee, which declares that the Postmaster-General has borrowed money on the credit of the United States, without any authority of law. The honorable chairman says he admits the truth of this charge. Admits it? But why does he content himself with admitting it? Does he not regard it as a gross violation of duty? Does he not think it an alarming thing, that the Postmaster-General should borrow half a million of dollars in order to cover up the deficiencies of the department, and that he should keep this loan concealed for years from the knowledge of Congress? As the head of a committee charged to inquire into abuses, and this enormous abuse having been discovered, can the honorable member justify himself by simply saying he admits its existence? Has he no reproof, no word of censure, for such a flagrant violation of law? Has he no disapprobation to express, no complaint to enter, in such tones that the administration shall hear them? No man denies the fact, and none undertakes to defend it. What then? Is the department still to go on in its career, and nothing to be done, any more than if nothing had been discovered? If there were nothing else in the whole report, if that charge stood alone, I cannot conceive how any man can doubt that the department ought to be immediately and thoroughly reformed. The country, if I mistake not, will call for such reformation. As to upholding the administration of the department, with such charges against it proved and admitted, it is more even than the spirit of party devotion can accomplish.

Again, Sir, the third resolution distinctly declares that a practice prevails in the post-office of granting contracts on bids, which vary from the advertisements, and of altering contracts after they are made and accepted; a practice which destroys all competition, and enables the department to give all contracts to favorites. Is this charge denied or admitted? I have not heard the honorable member, the chairman, deny it. Does

he acknowledge it to be true? If he does, why does he not tell us, in a plain and direct manner, that this too is an enormous abuse, and ought to be reformed? Is such a practice to pass without reprehension? While its existence is detected, discovered, and acknowledged, is there to be no rebuke of it?

Then there is the sixth resolution, which declares that extra allowances have been made to contractors, which are unreasonable and extravagant, and out of all proportion with the increase of service. Is this true?

The eleventh resolution alleges, in general terms, that the department is deeply in debt, and its affairs in disorder. I have heard no man deny this. None can deny it. The department is deeply in debt; its affairs are disordered, greatly disordered. These extra allowances appear to have lost their original character. Instead of being extraordinary, they have become ordinary. Contractors calculate upon them. The probability of an extra allowance enters into their motives when they make bids. Indeed, it seems of very little importance what bids they make. They are, in fact, paid just what sums the Postmaster-General sees fit to pay; and they are generally very well satisfied. From the frequency and the amount of these extras, and the constant changing of contracts, it is quite evident that all fair competition among contractors is done away.

Mr. President, the country is awakened to these abuses in the post-office, and it will not be, and ought not to be, satisfied without a thorough examination, and an honest and real reform. I give my hearty thanks to the committee for their zeal and industry. They have had a laborious winter, and are likely to have a laborious summer. Let them go on fearlessly, and the country will appreciate their services.

Let them explore all the sources of corrupt patronage; let them bring all abuses into the broad light of day. Let them inquire into the number of removals of postmasters, with the alleged causes of such removals. Let them inquire at whose bidding honest and faithful men have been removed, to make way for partisans. Let them ascertain whether it be true that persons here may go into the post-office, and require the removal of postmasters by dozens; and whether the Postmaster-General, as a matter of course, complies with such requisitions.

Mr. President, it is due to the committee, it is due to the Sen-

ate itself, it is due to this highly important subject, that we should express an opinion on some of the leading resolutions reported by the committee. If some are more doubtful than the rest, or require further examination, let them remain for further consideration. But on the plain, acknowledged, notorious cases, let us come to a vote. Let us show the country that we are in earnest. Let us begin with the first, with that which respects the borrowing of money from banks, without authority of law, or even the knowledge of Congress; and let us see whether any one individual member of the Senate is prepared to withhold from that proceeding his vote of censure.

Mr. Benton thought the Senate ought to defer, for the present, taking a vote on the resolutions. He said he had had no opportunity of carefully examining the reports, and therefore knew but little of their contents. However, he must say that he had found things in them at which he felt much mortified. Mr. Webster continued: —

I think, Sir, the best course, that which is called for by the importance of the subject, and which is due as well to the committee as the Senate, is this, — to take a vote on the first resolution. I will then move to lay the others upon the table, until such time as gentlemen shall have had an opportunity of examining them, when I will move that they be taken up.

The question was then taken on agreeing to the first resolution reported by the Post-Office Committee, in the following words: —

"*Resolved*, That it is proved, and admitted, that large sums of money have been borrowed at different banks by the Postmaster-General, in order to make up the deficiency in the means of carrying on the business of the Post-Office Department, without authority given by any law of Congress; and that, as Congress alone possesses the power to borrow money on the credit of the United States, all such contracts for loans by the Postmaster-General are illegal and void."

And the question on agreeing to this resolution was decided unanimously in the affirmative.

FRENCH SPOLIATIONS PRIOR TO 1800.*

MR. PRESIDENT, — Before proceeding to the discussion of the bill, I feel it to be my duty to take notice of an occurrence such as does not ordinarily draw from me any remarks in my place in the Senate. Some time in March last, there appeared in a newspaper published at Albany, in the State of New York, a letter, purporting to have been written to the editor from Washington, in which the writer charges me with having a direct personal interest in these claims. I am ashamed to say, that this letter was written by a member of Congress. The assertion, like many others which I have not felt it to be my duty to take any notice of, was wholly and entirely false and malicious. I have not the slightest interest in these claims, or any one of them. I have never been conferred with or retained by any one, or spoken to as counsel, for any of them, in the course of my life. No member of the Senate is more entirely free from any personal connection with the claims than I am. It has been the pleasure of the Senate, on several occasions, to place me on a committee to which these petitions have been referred. I have on those occasions examined the subject with a desire to acquit myself conscientiously of my duty, by exercising my best judgment upon the claims, as questions of mere right and justice.

At the last session, an honorable member of the Senate, now in a public capacity at St. Petersburg,† introduced a bill for the relief of the petitioners, and moved the appointment of a com-

* A Speech delivered in the Senate on the 12th of January, 1835, on the Bill granting Indemnity to Citizens of the United States for French Spoliations on American Commerce prior to 1800.

† Mr. Wilkins of Pennsylvania.

mittee, declining himself to be a member of that committee. Without any wish of mine, and, indeed, without my knowledge, for I was not then in the city, the Senate was pleased to place me at the head of that committee. I thought it my duty then to introduce the bill which is now again under consideration.

This is no party question; it involves no party principles, affects no party interests, seeks no party ends or objects; and as it is a question of private right and justice, it would be flagrant wrong and injustice to attempt to give to it, anywhere, the character of a party measure. The petitioners, the sufferers under the French spoliations, belong to all parties. Gentlemen of distinction, of all parties, have at different times maintained the justice of the claim. The present bill is intended for the equal relief of all sufferers; and if the measure shall become a party measure, I for one shall not pursue it. It will be wiser to leave it till better auspices shall appear.

The question, Sir, involved in this case is essentially a judicial question. It is not a question of public policy, but a question of private right; a question between the government and the petitioners; and, as the government is to be judge in its own case, it would seem to be the duty of its members to examine the subject with the most scrupulous good faith, and the most solicitous desire to do justice.

There is a propriety in commencing the examination of these claims in the Senate, because it was the Senate which, by its amendment of the convention of 1800, and its subsequent ratification of that convention, and its recognition of the declaration of the French government, effectually released the claims as against France, and for ever cut off the petitioners from all hopes of redress from that quarter. The claims, as claims against our own government, have their foundation in these acts of the Senate itself; and it may certainly be expected that the Senate will consider the effect of its own proceedings on private right and private interests with that candor and justice which belong to its high character.

It ought not to be objected to these petitioners, that their claim is old, or that they are now reviving any thing which has heretofore been abandoned. There has been no delay which is not reasonably accounted for. The convention, by which the claimants say their claims on France for these captures and con-

fiscations were released, was concluded in 1800. They immediately applied to Congress for indemnity, as will be seen by the report made in 1802 in the House of Representatives, by a committee of which a distinguished member from Virginia, not now living,* was chairman.

In 1807, on the petition of sundry merchants and others, citizens of Charleston, in South Carolina, a committee of the House of Representatives, of which Mr. Marion of that State was chairman, made a report, declaring that the committee was of opinion that the government of the United States was bound to indemnify the claimants. But at this time our affairs with the European powers at war had become exceedingly embarrassed; our government had felt itself compelled to withdraw our commerce from the ocean; and it was not until after the conclusion of the war of 1812, and after the general pacification of Europe, that a suitable opportunity occurred of presenting the subject again to the serious consideration of Congress. From that time the petitioners have been constantly before us, and the period has at length arrived proper for a final decision of their case.

Another objection, Sir, has been urged against these claims, well calculated to diminish the favor with which they might otherwise be received, and which is without any substantial foundation in fact. It is, that a great portion of them has been bought up, as a matter of speculation, and is now held by these purchasers. It has even been said, I think, on the floor of the Senate, that nine tenths, or ninety-nine hundredths, of all the claims are owned by speculators.

Such unfounded statements are not only unjust towards these petitioners themselves, but they do great mischief to other interests. I have observed that a French gentleman of distinction, formerly a resident in this country, is represented in the public newspapers as having declined the offer of a seat in the French administration, on the ground that he could not support the late convention between the United States and France; and he could not support that convention because he had learned, or heard, while in America, that the claims were no longer the property of the original sufferers, but had passed into unworthy hands. If any such thing has been learned in the United States,

* Mr. Giles.

it has been learned from sources entirely incorrect. The general fact is not so; and this prejudice, thus operating on a great national interest, an interest in regard to which we are in danger of being seriously embroiled with a foreign state, was created, doubtless, by the same incorrect and unfounded assertions which have been made relative to this other class of claims.

In regard to both classes, and to all classes of claims of American citizens on foreign governments, the statement is at variance with the facts. Those who make it have no proof of it. On the contrary, incontrovertible evidence exists of the truth of the very reverse of this statement. The claims against France, since 1800, are now in the course of adjudication. They are all, or very nearly all, presented to the proper tribunal. Proofs accompany them, and the rules of the tribunal require that, in each case, the true ownership shall be fully and exactly set out, on oath, and be proved by the papers, vouchers, and other evidence. Now, Sir, if any man is acquainted, or will make himself acquainted, with the proceedings of this tribunal, so far as to see who are the parties claiming the indemnity, he will see the absolute and enormous error of those who represent these claims to be owned, in great part, by speculators.

The truth is, Sir, that these claims, as well those since 1800 as before, are owned and possessed by the original sufferers, with such changes only as happen in regard to all other property. The original owner of ship and cargo; his representative, where such owner is dead; underwriters, who have paid losses, on account of captures and confiscations; and creditors of insolvents and bankrupts, who were interested in the claims,— these are the descriptions of persons who, in all these cases, own vastly the larger portion of the claims. This is true of the claims on Spain, as is most manifest from the proceedings of the commissioners under the Spanish treaty. It is true of the claims on France arising since 1800, as is equally manifest by the proceedings of the commissioners now sitting; and it is equally true of the claims which are the subject of this discussion, and provided for in this bill. In some instances, claims have been assigned from one to another, in the settlement of family affairs. They have been transferred, in other instances,

to secure or to pay debts; they have been transferred, sometimes, in the settlement of insurance accounts; and it is probable there are a few cases in which the necessities of the holders have compelled them to sell them. But nothing can be farther from the truth, than that they have been the general subjects of purchase and sale, and that they are now held mainly by purchasers from the original owners. They have been compared to the old, unfunded debt of the Revolution. But that consisted in scrip, of fixed amount, and which passed from hand to hand by delivery. These claims cannot so pass from hand to hand. In each case, not only the value, but the amount, is uncertain. Whether there be any claim is, in each case, a matter for investigation and proof; and so is the amount, when the justice of the claim itself is established. These circumstances are of themselves quite sufficient to prevent the easy and frequent transfer of the claims from hand to hand. They would lead us to expect that to happen which actually has happened; and that is, that the claims remain with their original owners, and their legal heirs and representatives, with such exceptions as I have already mentioned. As to the portion of the claims now owned by underwriters, it can hardly be necessary to say, that they stand on the same equity and justice as if possessed and presented by the owners of ships and goods. There is no more universal maxim of law and justice, throughout the civilized and commercial world, than that an underwriter, who has paid a loss on ships or merchandise to the owner, is entitled to whatever may be received from the property. His right accrues by the very act of payment; and if the property, or its proceeds, be afterwards recovered, in whole or in part, whether the recovery be from the sea, from captors, or from the justice of foreign states, such recovery is for the benefit of the underwriter. Any attempt, therefore, to prejudice these claims, on the ground that many of them belong to insurance companies, or other underwriters, is at war with the first principles of justice.

A short but accurate general view of the history and character of these claims is presented in the report of the Secretary of State,* on the 20th of May, 1826, in compliance with a resolution of the Senate. Allow me, Sir, to read the paragraphs.

* Mr. Clay.

"The Secretary can hardly suppose it to have been the intention of the resolution to require the expression of an argumentative opinion as to the degree of responsibility, to the American sufferers from French spoliations, which the convention of 1800 extinguished on the part of France, or devolved on the United States, the Senate itself being most competent to decide that question. Under this impression, he hopes that he will have sufficiently conformed to the purposes of the Senate, by a brief statement, prepared in a hurried moment, of what he understands to be the question.

"The second article of the convention of 1800 was in the following words: 'The ministers plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows.'

"When that convention was laid before the Senate, it gave its consent and advice that it should be ratified, provided that the second article be expunged, and that the following article be added or inserted: 'It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of the ratifications'; and it was accordingly so ratified by the President of the United States, on the 18th day of February, 1801. On the 31st of July of the same year, it was ratified by Bonaparte, First Consul of the French republic, who incorporated into the instrument of his ratification the following clause, as part of it: 'The government of the United States having added to its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the government of the French republic consents to accept, ratify, and confirm the above convention, with the addition importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *Provided that, by this retrenchment, the two states renounce the respective pretensions which are the object of the said article.*'

"The French ratification, being thus conditional, was nevertheless exchanged against that of the United States, at Paris, on the same 31st of July. The President of the United States, considering it necessary again to submit the convention, in this state, to the Senate, on the 19th day of December, 1801, it was resolved by the Senate, that they considered the said convention as fully ratified, and they returned it to the President for the usual promulgation. It was accordingly promulgated,

and thereafter regarded as a valid and binding compact. The two contracting parties thus agreed, by the retrenchment of the second article, mutually to renounce, the respective pretensions which were the object of that article.

"The pretensions of the United States to which allusion is thus made arose out of the spoliations under color of French authority, in contravention of law and existing treaties. Those of France sprung from the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788. Whatever obligations or indemnities, from these sources, either party had a right to demand, were respectively waived and abandoned; and the consideration which induced one party to renounce his pretensions was that of renunciation by the other party of his pretensions. What was the value of the obligations and indemnities so reciprocally renounced, can only be matter of speculation. The amount of the indemnities due to the citizens of the United States was very large; and, on the other hand, the obligation was great (to specify no other French pretensions) under which the United States were placed in the eleventh article of the treaty of alliance of the 6th of February, 1778, by which they were bound, for ever, to guaranty, from that time, the then possessions of the crown of France in America, as well as those which it might acquire by the future treaty of peace with Great Britain; all these possessions having been, it is believed, conquered, at, or not long after, the exchange of the ratifications of the convention of September, 1800, by the arms of Great Britain, from France.

"The fifth article of the Amendments to the Constitution provides, 'Nor shall private property be taken for public use without just compensation.' If the indemnities to which citizens of the United States were entitled for French spoliations, prior to the 30th of September, 1800, have been appropriated to absolve the United States from the fulfilment of an obligation which they had contracted, or from the payment of indemnities which they were bound to make to France, the Senate is most competent to determine how far such an appropriation is a public use of private property within the spirit of the Constitution, and whether equitable considerations do not require some compensation to be made to the claimants. The Senate is also best able to estimate the probability which existed of an ultimate recovery from France of the amount due for those indemnities, if they had not been renounced; in making which estimate, it will, no doubt, give just weight to the painful consideration, that repeated and urgent appeals have been in vain made to the justice of France, for satisfaction of flagrant wrongs committed upon property of other citizens of the United States, subsequent to the period of the 30th of September, 1800."

Before the interference of our government with these claims, they constituted just demands against the government of France. They were not vague expectations of possible future indemnity for injuries received, too uncertain to be regarded as valuable, or be esteemed property. They were just demands, and, as such, they were property. The courts of law took notice of them as property. They were capable of being devised, of being distributed among heirs and next of kin, and of being transferred and assigned, like other legal and just debts. A claim or demand for a ship unjustly seized and confiscated is property, as clearly as the ship itself. It may not be so valuable, or so certain; but it is as clear a right, and has been uniformly so regarded by the courts of law. The papers show that American citizens had claims against the French government for six hundred and fifteen vessels, unlawfully seized and confiscated. If this were so, it is difficult to see how the government of the United States can release these claims for its own benefit, with any more propriety than it could have applied the money to its own use, if the French government had been ready to make compensation in money for the property thus illegally seized and confiscated; or how the government could appropriate to itself, without making compensation, the just claims which the owners of these six hundred and fifteen vessels held against the wrong-doers, any more than it could appropriate to itself, without making compensation, six hundred and fifteen vessels which had not been seized. I do not mean to say that the rate of compensation should be the same in both cases; I do not mean to say that a claim for a ship is of as much value as a ship; but I mean to say that both the one and the other are property, and that government cannot, with justice, deprive a man of either, for its own benefit, without making a fair compensation.

It will be perceived at once, Sir, that these claims do not rest on the ground of any neglect or omission, on the part of the government of the United States, in demanding satisfaction from France. This is not the ground. The government of the United States, in that respect, performed its full duty. It remonstrated against these illegal seizures; it insisted on redress; it sent two special missions to France, charged expressly, among other duties, with the duty of demanding indemnity. But France had her subjects of complaint, also, against the govern-

ment of the United States, which she pressed with equal earnestness and confidence, and which she would neither postpone nor relinquish, except on the condition that the United States would postpone or relinquish these claims. And, to meet this condition, and to restore harmony between the two nations, the United States did agree, first to postpone, and afterwards to relinquish, these claims of its own citizens. In other words, the government of the United States bought off the claims of France against itself, by discharging claims of our own citizens against France.

This, Sir, is the ground on which these citizens think they have a claim for reasonable indemnity against their own government. And now, Sir, before proceeding to the disputed part of the case, permit me to state what is admitted.

In the first place, then, it is universally admitted, that these petitioners once had just claims against the government of France, on account of these illegal captures and condemnations.

In the next place, it is admitted, that these claims no longer exist against France; that they have, in some way, been extinguished or released, as to her; and that she is for ever discharged from all duty of paying or satisfying them, in whole or in part.

These two points being admitted, it is then necessary, in order to support the present bill, to maintain four propositions: —

1. That these claims subsisted against France up to the time of the convention of September, 1800, between France and the United States.

2. That they were released, surrendered, or extinguished by that convention, its amendment in the Senate, and the manner of its final ratification.

3. That they were thus released, surrendered, or extinguished, for political and national considerations, for objects and purposes deemed important to the United States, but in which these claimants had no more interest than any other citizens.

4. That the amount or measure of indemnity proposed by this bill is no more than a fair and reasonable compensation, so far as we can judge by what has been done in similar cases.

These propositions I shall attempt briefly to establish.

1. Were these claims subsisting against France up to the time of the treaty? It is a conclusive answer to this question

to say, that the government of the United States insisted that they did exist, up to the time of the treaty, and demanded indemnity for them, and that the French government fully admitted their existence, and acknowledged its obligation to make such indemnity.

The negotiation which terminated in the convention was opened by a direct proposition for indemnity, made by our ministers, the justice and propriety of which were immediately acceded to by the ministers of France.

On the 7th of April, 1800, in their first letter to the ministers of France, Messrs. Ellsworth, Davie, and Murray say: —

"Citizen Ministers: The undersigned, appreciating the value of time, and wishing by frankness to evince their sincerity, enter directly upon the great object of their mission, an object which they believe may be best obtained by avoiding to retrace minutely the too well known and too painful incidents which have rendered a negotiation necessary.

"To satisfy the demands of justice, and render a reconciliation cordial and permanent, they propose an arrangement, such as shall be compatible with national honor and existing circumstances, to ascertain and discharge the equitable claims of the citizens of either nation upon the other, whether founded on contract, treaty, or the law of nations. The way being thus prepared, the undersigned will be at liberty to stipulate for that reciprocity and freedom of commercial intercourse between the two countries, which must essentially contribute to their mutual advantage.

"Should this general view of the subject be approved by the ministers plenipotentiary to whom it is addressed, the details, it is presumed, may be easily adjusted, and that confidence restored which ought never to have been shaken."

To this letter, the French ministers immediately returned the following answer: —

"The ministers plenipotentiary of the French republic have read attentively the proposition for a plan of negotiation, which was communicated to them by the envoys extraordinary and ministers plenipotentiary of the United States of America.

"They think that the first object of the negotiation ought to be the determination of the regulations and the steps to be followed for the estimation and indemnification of injuries for which either nation may make claim for itself, or for any of its citizens; and that the second object is, to assure the execution of treaties of friendship and commerce

made between the two nations, and the accomplishment of the views of reciprocal advantages which suggested them."

It is certain, therefore, that the negotiation commenced in the recognition, by both parties, of the existence of individual claims, and of the justice of making satisfaction for them; and it is equally clear, that, throughout the whole negotiation, neither party suggested that these claims had already been either satisfied or extinguished; and it is indisputable that the convention itself, in the second article, expressly admitted their existence, and solemnly recognized the duty of providing for them at some future period.

It will be observed, Sir, that the French negotiators, in their first letter, while they admit the justice of providing indemnity for individual claims, bring forward, also, claims *arising under treaties;* taking care, thus early, to advance the pretensions of France on account of alleged violations by the United States of the treaties of 1778. On that part of the case, I shall say something hereafter; but I use this first letter of the French ministers at present only to show that, from the first, the French government admitted its obligation to indemnify individuals who had suffered wrongs and injuries.

The honorable member from New York* contends, Sir, that, at the time of concluding the convention, these claims had ceased to exist. He says that a war had taken place between the United States and France, and by the war the claims had become extinguished. I differ from the honorable member, both as to the fact of war, and as to the consequences to be deduced from it, in this case, even if public war had existed. If we admit, for argument's sake, that war had existed, yet we find that, on the restoration of amity, both parties admit the justice of these claims, and their continued existence; and the party against which they are preferred acknowledges her obligation, and expresses her willingness, to pay them. The mere fact of war can never extinguish any claim. If, indeed, claims for indemnity be the professed ground of war, and peace be afterwards concluded without obtaining any acknowledgment of the right, such a peace may be construed to be a relinquishment of the right, on the ground that the question has been put to the arbi-

* Mr. Wright.

tration of the sword, and decided. But, if a war be waged to enforce a disputed claim, and it be carried on till the adverse party admit the claim, and agree to provide for its payment, it would be strange indeed to hold that the claim itself was extinguished by the very war which had compelled its express recognition. Now, whatever we call that state of things which existed between the United States and France from 1798 to 1800, it is evident that neither party contended or supposed that it had been such a state of things as had extinguished individual claims to indemnification for illegal seizures and confiscations.

The honorable member, Sir, to sustain his point, must prove that the United States went to war to vindicate these claims; that they waged that war unsuccessfully; and that they were therefore glad to make peace, without obtaining payment of the claims, or any admission of their justice. I am happy, Sir, to say, that, in my opinion, facts do not authorize any such record to be made up against the United States. I think it is clear, Sir, that, whatever misunderstanding existed between the United States and France, it did not amount, at any time, to open and public war. It is certain that the amicable relations of the two countries were much disturbed; it is certain that the United States authorized armed resistance to French captures, and the captures of French vessels of war found hovering on our coast; but it is certain, also, not only that there was no declaration of war, on either side, but that the United States, under all their provocations, never authorized general reprisals on French commerce. At the very moment when the gentleman says war raged between the United States and France, French citizens came into our courts, in their own names claimed restitution for property seized by American cruisers, and obtained decrees of restitution. They claimed as citizens of France, and obtained restitution in our courts as citizens of France. It must have been a singular war, Sir, in which such proceedings could take place. Upon a fair view of the whole matter, Mr. President, it will be found, I think, that every thing done by the United States was defensive. No part of it was ever retaliatory. The United States did not take justice into their own hands.

The strongest measure, perhaps, adopted by Congress, was the act of the 28th of May, 1798. The honorable member from

New York has referred to this act, and chiefly relies upon it to prove the existence, or the commencement, of actual war. But does it prove either the one or the other?

It is not an act declaring war; it is not an act authorizing reprisals; it is not an act which, in any way, acknowledges the actual existence of war. Its whole implication and import are the other way. Its title is, "An Act more effectually to protect the commerce and coasts of the United States."

This is its preamble:—

"Whereas armed vessels, sailing under authority, or pretence of authority, from the republic of France, have committed depredations on the commerce of the United States, and have recently captured the vessels and property of citizens thereof, on and near the coasts, in violation of the law of nations, and treaties between the United States and the French nation; therefore,"

And then follows its only section, in these words:—

"Sec. 1. *Be it enacted, &c.*, That it shall be lawful for the President of the United States, and he is hereby authorized, to instruct and direct the commanders of the armed vessels belonging to the United States to seize, take, and bring into any port of the United States, to be proceeded against according to the laws of nations, any such armed vessel which shall have committed, or which shall be found hovering on the coasts of the United States for the purpose of committing, depredations on the vessels belonging to citizens thereof; and also retake any ship or vessel of any citizen or citizens of the United States, which may have been captured by any such armed vessel."

This act, it is true, authorized the use of force, under certain circumstances and for certain objects, against French vessels. But there may be acts of authorized force; there may be assaults; there may be battles; there may be captures of ships and imprisonment of persons, — and yet no general war. Cases of this kind may occur under that practice of *retortion* which is justified, when adopted for just cause, by the laws and usages of nations, and which all the writers distinguish from general war.

The first provision in this law is purely preventive and defensive; and the other hardly goes beyond it. Armed vessels hovering on our coast, and capturing our vessels, under authority, *or pretence of authority*, from a foreign state, might be captured

and brought in, and vessels already seized by them retaken. The act is limited to *armed* vessels; but why was this, if general war existed? Why was not the naval power of the country let loose at once, if there was war, against the commerce of the enemy? The cruisers of France were preying on our commerce; if there was war, why were we restrained from general reprisals on her commerce? This restraining of the operation of our naval marine to armed vessels of France, and to such of them only as should be found hovering on our coast for the purpose of committing depredations on our commerce, instead of proving a state of war, proves, I think, irresistibly, that a state of general war did not exist. But even if this act of Congress left the matter doubtful, other acts, passed at and near the same time, demonstrate the understanding of Congress to have been, that, although the relations between the two countries were greatly disturbed, yet war did not exist. On the same day (May 28, 1798) in which this act passed, on which the member from New York lays so much stress as proving the actual existence of war with France, Congress passed another act, entitled "An Act authorizing the President of the United States to raise a provisional army"; and the first section declared, that the President should be authorized, "*in the event of a declaration of war against the United States, or of actual invasion of their territory, by a foreign power, or of imminent danger of such invasion,*" to cause to be enlisted ten thousand men.

On the 16th of July following, Congress passed the law for augmenting the army, the second section of which authorized the President to raise twelve additional regiments of infantry and six troops of light dragoons, "to be enlisted for and during *the continuance of the existing differences between the United States and the French republic*, unless sooner discharged."

The following spring, by the act of the 2d of March, 1799, entitled "An Act giving *eventual* authority to the President of the United States to augment the army," Congress provided that it should be lawful for the President of the United States, *in case war should break out between the United States and a foreign European power*, to raise twenty-four regiments of infantry. And in the act for better organizing the army, passed the next day, Congress repeats the declaration contained in a former act, that certain provisions shall not take effect *unless war shall*

break out between the United States and some European prince, potentate, or state.

On the 20th of February, 1800, an act was passed to suspend the act for augmenting the army, and this last act declared, that further enlistments should be suspended until the further order of Congress, *unless, in the recess of Congress, and during the continuance of the existing differences between the United States and the French republic, war should break out between the United States and the French republic, or imminent danger of invasion of their territory by the said republic should be discovered.*

On the 14th of May, 1800, four months before the conclusion of the convention, Congress passed an act authorizing the suspension of military appointments, and the discharge of troops raised under the provisions of the previous laws. No commentary is necessary on the texts of these statutes, to show that Congress never recognized the existence of war between the United States and France. They apprehended war might break out; and they made suitable provision for that exigency, should it occur; but it is quite impossible to reconcile the express and so often repeated declarations of these statutes, commencing in 1798, running through 1799, and ending in 1800, with the actual existence of war between the two countries, at any period within those years.

The honorable member's second principal source of argument, to make out the fact of a state of war, is the several non-intercourse acts. And here, again, it seems to me, an exactly opposite inference is the true one. In 1798, 1799, and 1800, acts of Congress were passed suspending the commercial intercourse between the United States and France, each *for one year.* Did any government ever pass a law of temporary non-intercourse with a public enemy? Such a law would be little less than an absurdity. War itself effectually creates non-intercourse. It renders all trade with the enemy illegal, and of course subjects all vessels so engaged, with their cargoes, to capture and condemnation, as enemy's property. The first of these laws was passed June 13th, 1798; the last, February 27th, 1800. Will the honorable member from New York tell us when the war commenced? When did it break out? When did those "differences," of which the acts of Congress speak, assume a character of general hostility? Was there a state of war on the 13th of

June, 1798, when Congress passed the first non-intercourse act? and did Congress, in a state of public war, limit non-intercourse with the enemy to one year? Or was there a state of peace in June, 1798? And if so, I ask again, At what time after that period, and before September, 1800, did the war break out? Difficulties of no small magnitude surround the gentleman, I think, whatever course he takes through these statutes, while he attempts to prove from them a state of war. The truth is, they prove, incontestably, a state of peace; a state of endangered, disturbed, agitated peace, but still a state of peace. Finding themselves in a state of great misunderstanding and contention with France, and seeing our commerce a daily prey to the rapacity of her cruisers, the United States preferred non-intercourse to war. This is the ground of the non-intercourse acts. Apprehending, nevertheless, that war might break out, Congress made prudent provision for it, by augmenting the military force of the country. This is the ground of the laws for raising a provisional army. The entire provisions of all these laws necessarily suppose an existing state of peace; but they imply also an apprehension that war might commence. For a state of actual war they were all unsuited; and some of them would have been, in such a state, preposterous and absurd. To a state of present peace, but disturbed, interrupted, and likely to terminate in open hostilities, they were all perfectly well adapted. As many of these acts, in express terms, speak of war as not actually existing, but as likely or liable to break out, it is clear, beyond all reasonable question, that Congress never, at any time, regarded the state of things existing between the United States and France as being a state of war.

As little did the executive government so regard it, as must be apparent from the instructions given to our ministers, when the mission was sent to France. Those instructions, having recurred to the numerous acts of wrong committed on the commerce of the United States, and the refusal of indemnity by the government of France, proceed to say: "This conduct of the French republic would well have justified an immediate declaration of war on the part of the United States; *but, desirous of maintaining peace, and still willing to leave open the door of reconciliation with France*, the United States contented themselves with preparations for defence, and measures calculated to protect their commerce."

It is equally clear, on the other hand, that neither the French government, nor the French ministers, acted on the supposition that war had existed between the two nations. It was for this reason that they held the treaties of 1778 still binding. Within a month or two of the signature of the convention, the ministers plenipotentiary of the French republic write thus to Messrs. Ellsworth, Davie, and Murray: "In the first place, they will insist upon the principle already laid down in their former note; namely, that the treaties which united France and the United States are not broken; that even war could not have broken them; but that the state of misunderstanding which has existed for some time between France and the United States, by the act of some agents rather than by the will of the respective governments, *has not been a state of war*, at least on the side of France."

Finally, Sir, the convention itself, what is it? It is not called a treaty of peace; it does not provide for putting an end to hostilities. It says not one word of any preceding war; but it does say that "differences" have arisen between the two states, and that they have therefore respectively appointed their plenipotentiaries, and given them full powers to treat upon those "differences," and to terminate the same.

But the second article of the treaty, as negotiated and agreed on by the ministers of both governments, is of itself a complete refutation of the whole argument which is urged against this bill, on the ground that the claims had been extinguished by war; since that article distinctly and expressly acknowledges the existence of the claims, and contains a solemn pledge that the two governments, not being able to agree on them at present, will negotiate further on them at a convenient future time. Whether we look, then, to the decisions of the American courts, to the acts of Congress, to the instructions of the American executive government, to the language of our ministers, to the declarations of the French government and the French ministers, or to the unequivocal language of the convention itself, as originally agreed to, we meet irresistible proof of the truth of the declaration, that the state of misunderstanding which had existed between the two countries was not war.

If the convention had remained as the ministers on both sides agreed upon it, the claimants, though their indemnity was post-

poned, would have had no just claim on their own government. But the convention did not remain in this state. The second article was struck out by the Senate; and in order to see the obvious motive of the Senate in this omission, allow me to read the whole article. It is in these words:—

"The ministers plenipotentiary of the two parties, not being able to agree, at present, respecting the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows."

The article thus stipulating to make the claims of France under the old treaties matter of further negotiation, in order to get rid of such negotiation, and the whole subject, the Senate struck out the entire article, and ratified the convention in this corrected form. France ratified the convention as thus amended, with the further declaration, that, by thus retrenching the second article, the two nations *renounce the respective pretensions which were the object of the article.* In this declaration of the French government, the Senate afterwards acquiesced; so that the government of France, by this retrenchment, agreed to renounce *her* claims under the treaties of 1778, and the United States, in like manner, renounced the claims *of their citizens* for indemnities due to them.

And this proves, Sir, the second proposition which I stated at the commencement of my remarks; namely, that these claims were released, relinquished, or extinguished by the amendment of the convention, and its ratification as amended. It is only necessary to add, on this point, that these claims for captures before 1800 would have been good claims under the late convention with France, and would have come in for a dividend in the fund provided by that convention, if they had not been released by the convention of 1800. They are now excluded from all participation in the benefit of the late convention, because of such release or extinguishment by that of 1800.

In the third place, Sir, it is to be proved, if it be not proved already, that these claims were surrendered, or released, by the government of the United States, on national considerations,

and for objects in which these claimants had no more interest than any other citizens.

Now, Sir, I do not feel called on to make out that the claims and complaints of France against the government of the United States were well founded. But it is certain that she put forth such claims and complaints, and insisted on them to the end. It is certain, that, by the treaty of alliance of 1778, the United States did guaranty to France her West India possessions. It is certain, that, by the treaty of commerce of the same date, the United States stipulated that French vessels of war might bring their prizes into the ports of the United States, and that the enemies of France should not enjoy that privilege; and it is certain that France contended that the United States had plainly violated this article, as well by their subsequent treaty with England as by other acts of the government. For the violation of these treaties she claimed indemnity from the government of the United States. Without admitting the justice of these pretensions, the government of the United States found them extremely embarrassing, and they authorized our ministers in France to *buy them off by money.*

For the purpose of showing the justice of the present bill, it is not necessary to insist that France was right in these pretensions. Right or wrong, the United States were anxious to get rid of the embarrassments which they occasioned. They were willing to compromise the matter. The existing state of things, then, was exactly this: —

France admitted that citizens of the United States had just claims against her; but she insisted that she, on the other hand, had just claims against the government of the United States. She would not satisfy our citizens till our government agreed to satisfy her. Finally, a convention is ratified, by which the claims on both sides are renounced.

The only question is, whether the relinquishment of these individual claims was the price which the United States paid for the relinquishment by France of her claims against our government. And who can doubt it? Look to the negotiation. The claims on both sides were discussed together. Look to the second article of the treaty, as originally agreed to. The claims on both sides are there reserved together; and look to the Senate's amendment, and to the subsequent declaration of the

French government, acquiesced in by the Senate; and there *the claims on both sides are renounced together.* What stronger proof could there be of mutuality of consideration? Sir, allow me to put this direct question to the honorable member from New York. If the United States did not agree to renounce these claims in consideration that France would renounce hers, what *was* the reason why they surrendered thus the claims of their own citizens? Did they do it without any consideration at all? Was the surrender wholly gratuitous? Did they thus solemnly renounce claims for indemnity, so just, so long insisted on by themselves, the object of two special missions, the subject of so much previous controversy, and at one time so near being the cause of open war, — did the government surrender and renounce them gratuitously, or for nothing? Had it no reasonable motive in the relinquishment? Sir, it is impossible to maintain any such ground.

And, on the other hand, let me ask, Was it for nothing that France relinquished, what she had so long insisted on, the obligation of the United States to fulfil the treaties of 1778? For the extinguishment of this obligation we had already offered her a large sum of money, which she had declined. Was she now willing to give it up, without any equivalent?

Sir, the whole history of the negotiation is full of proof that the individual claims of our citizens, and the government claims of France against the United States, constituted the respective *demands* of the two parties. They were brought forward together, discussed together, insisted on together. The French ministers would never consent to separate them. While they admitted in the fullest manner the claims on our side, they maintained, with persevering resolution, the claims on the side of France. It would fatigue the Senate were I to go through the whole correspondence, and show, as I could easily do, that, in every stage of the negotiation, these two subjects were kept together. I will only refer to some of the more prominent and decisive parts.

In the first place, the general instructions which our ministers received from our own government, when they undertook the mission, directed them to insist on the claims of American citizens against France, to propose a joint board of commissioners, to state those claims, and to agree to refer the complaints of

France, for infringements of the treaty of commerce, to the same board. I will read, Sir, so much of the instructions as comprehend these points.

"First. At the opening of the negotiation, you will inform the French ministers, that the United States expect from France, as an indispensable condition of the treaty, a stipulation to make to the citizens of the United States full compensation for all losses and damages which they shall have sustained by reason of irregular or illegal captures or condemnations of their vessels and other property, under color of authority or commissions from the French republic or its agents. And all captures and condemnations are deemed irregular or illegal, when contrary to the law of nations generally received and acknowledged in Europe, and to the stipulations in the treaty of amity and commerce of the 6th of February, 1778, fairly and ingenuously interpreted, while that treaty remained in force.

"Second. If these preliminaries should be satisfactorily arranged, then, for the purpose of examining and adjusting all the claims of our citizens, it will be necessary to provide for the appointment of a board of commissioners, similar to that described in the sixth and seventh articles of the treaty of amity and commerce between the United States and Great Britain.

"As the French government have heretofore complained of infringements of the treaty of amity and commerce by the United States, or their citizens, all claims for injuries thereby occasioned to France or its citizens are to be submitted to the same board; *and whatever damages they award will be allowed by the United States, and deducted from the sums awarded to be paid by France.*"

Now, Sir, suppose this board had been constituted, and suppose that it had made awards against France, in behalf of citizens of the United States, and had made awards also in favor of the government of France against the government of the United States; and then these last awards had been deducted from the amount of the former, and the property of citizens thus applied to discharge the public obligations of the country, would any body doubt that such citizens would be entitled to indemnity? And are they less entitled, because, instead of being first liquidated and ascertained, and then set off, one against the other, they are finally agreed to be set off against each other, and mutually relinquished in the lump?

Acting upon their instructions, it will be seen that the Ameri-

can ministers made an actual offer to suspend the claim for indemnities, till France should be satisfied as to her political rights under the treaties. On the 15th of July, they made this proposition to the French negotiators: —

"Indemnities to be ascertained, and secured, in the manner proposed in our project of a treaty, but not to be paid until the United States shall have offered to France an article stipulating free admission, in the ports of each, for the privateers and prizes of the other, to the exclusion of their enemies."

This, it will be at once seen, was a direct offer to suspend the claims of our own citizens till our government should be willing to renew to France the obligation of the treaty of 1778. Was not this an offer to make use of private property for public purposes?

On the 11th of August, the French plenipotentiaries thus write to the ministers of the United States: —

"The propositions which the French ministers have the honor to communicate to the ministers plenipotentiary of the United States are reduced to this simple alternative: —

"Either the ancient treaties, with the privileges resulting from priority, and a stipulation of reciprocal indemnities;

"Or a new treaty, assuring equality, *without indemnity*."

In other words, this offer is, "If you will acknowledge or renew the obligation of the old treaties, which secure to us privileges in your ports which our enemies are not to enjoy, then we will make indemnities for the losses of your citizens; or, if you will give up all claim for such indemnities, then we will relinquish our especial privileges under the former treaties, and agree to a new treaty, which shall only put us on a footing of equality with Great Britain, our enemy."

On the 20th of August, our ministers propose, that the former treaties, so far as they respect the rights of privateers, shall be renewed, but that it shall be optional with the United States, by the payment, within seven years, of three millions of francs, either in money *or in securities issued by the French government for indemnities to our citizens*, to buy off this obligation, or to buy off *all* its political obligations, under both the old treaties, by payment in like manner of *five* millions of francs.

On the 4th of September, the French ministers submit these propositions: —

"A commission shall regulate the indemnities which either of the two nations may owe to the citizens of the other.

"The indemnities which shall be due by France to the citizens of the United States shall be paid for by the United States, *and in return for which France yields the exclusive privilege resulting from the seventeenth and twenty-second articles of the treaty of commerce, and from the rights of guaranty of the eleventh article of the treaty of alliance.*"

The American ministers considered these propositions as inadmissible. They however, on their part, made an approach to them, by proposing, in substance, that it should be left optional with the United States, on the exchange of the ratification, to relinquish the indemnities, and in that case the old treaties not to be obligatory on the United States, so far as they conferred exclusive privileges on France. This will be seen in the letter of the American ministers of the 5th of September.

On the 18th of September, the American ministers say to those of France: —

"It remains only to consider the expediency of a temporary arrangement. Should such an arrangement comport with the views of France, the following principles are offered as the basis of it: —

"1st. The ministers plenipotentiary of the respective parties, not being able at present to agree respecting the former treaties and indemnities, the parties will, in due and convenient time, further treat on those subjects; and until they shall have agreed respecting the same, the said treaties shall have no operation."

This, the Senate will see, is substantially the proposition which was ultimately accepted, and which formed the second article of the convention. By that article, these claims, on both sides, were postponed for the present; and afterwards, by other acts of the two governments, they were mutually and for ever renounced and relinquished.

And now, Sir, if any gentleman can look to the convention, look to the instructions under which it was concluded, look to the correspondence which preceded it, and look to the subsequent agreement of the two governments to renounce claims, on both sides, and not admit that the property of these private citizens

has been taken to buy off embarrassing claims of France on the government of the United States, I know not what other or further evidence could ever force that conviction on his mind.

I will conclude this part of the case by showing you how this matter was understood by the American administration which finally accepted the convention, with this renouncement of indemnities. The convention was negotiated in the administration of Mr. Adams. It was amended in the Senate, as already stated, and ratified on the 3d day of February, 1801, Mr. Adams being still in office. Being thus ratified, with the amendment, it was sent back to France, and on the 31st day of July the First Consul ratified the convention, as amended, by striking out the second article, but accompanied the ratification with this declaration: "PROVIDED THAT BY THIS RETRENCHMENT THE TWO STATES RENOUNCE THEIR RESPECTIVE PRETENSIONS, WHICH ARE THE OBJECT OF THE SAID ARTICLE."

With this declaration appended, the convention came back to the United States. Mr. Jefferson had now become President, and Mr. Madison was Secretary of State. In consequence of the declaration of the French government accompanying its ratification, and now attached to it, Mr. Jefferson again referred the convention to the Senate, and on the 19th of December, 1801, the Senate resolved that they considered it as duly ratified. Now, Sir, in order to show what Mr. Jefferson and his administration thought of this convention, and the effect of its ratification, in its then existing form, I beg leave to read an extract from an official letter from Mr. Madison to Mr. Pinkney, then our minister in Spain. Mr. Pinkney was at that time negotiating for the adjustment of our claims on Spain; and, among others, for captures committed within the territories of Spain, by French subjects. Spain objected to these claims, on the ground that the United States had claimed redress of such injuries from France. In writing to Mr. Pinkney (under date of February 6, 1804), and commenting on this plea of Spain, Mr. Madison says:—

"The plea on which it seems the Spanish government now principally relies, is the erasure of the second article from our late convention with France, by which France was released from the indemnities due for spoliations committed under her immediate responsibility to the United

States. This plea did not appear in the early objections of Spain to our claims. It was an after-thought, resulting from the insufficiency of every other plea, and is certainly as little valid as any other.

"The injuries for which indemnities are claimed from Spain, though committed by Frenchmen, took place under Spanish authority; Spain, therefore, is answerable for them. To her we have looked, and continue to look, for redress. If the injuries done to us by her resulted in any manner from injuries done to her by France, she may, if she pleases, resort to France as we resort to her. But whether her resort to France would be just or unjust is a question between her and France; not between either her and us, or us and France. We claim against her, not against France. In releasing France, therefore, we have not released her. The claims, again, from which France was released, were admitted by France, and the release was for a valuable consideration in a correspondent release of the United States from certain claims on them. The claims we make on Spain were never admitted by France, nor made on France by the United States; they made, therefore, no part of the bargain with her, and could not be included in the release."

Certainly, Sir, words could not have been used which should more clearly affirm that these individual claims, these private rights of property, had been applied to public uses. Mr. Madison here declares, unequivocally, that these claims had been admitted by France; that they were relinquished by the government of the United States; that they were relinquished for a valuable consideration; that that consideration was a correspondent release of the United States from certain claims on them; and that the whole transaction was a bargain between the two governments. This declaration, Sir, be it remembered, was made little more than two years after the final promulgation of the convention; it was made by the Secretary of State under that administration which gave effect to the convention in its amended form; and it proves beyond mistake, and beyond doubt, the clear judgment which that administration had formed upon the true nature and character of the whole transaction.

I have said nothing, Sir, of the Louisiana convention, because neither that convention, nor any thing done under it, affects this question in the slightest degree. Great mistakes, I am aware, have existed on this point. The honorable member from New York candidly acknowledged that he himself had partaken in

this misapprehension; but as he, and others who have opposed the bill, admit that the convention which accompanied the Louisiana treaty is not connected with this subject at all, I will not detain the Senate with remarks upon it. Suffice it to say, that the demands provided for by that convention were only certain debts arising in contract, or from detention of vessels by embargo, and for certain vessels not condemned at the date of the convention of 1800, and that none of them arose from illegal captures and condemnations. And the Senate will see, that, to avoid all ambiguity on that point, this bill expressly excludes from its provisions all claims which were paid, in whole or in part, under that convention.

It only remains to show the reasonableness of the amount which the bill proposes to distribute. And this, it must be admitted, can only be fixed by estimate, and this estimate may be formed in various ways. So far as can be learned from official reports, there are something more than six hundred vessels, with their cargoes, which are supposed to form claims under this bill. Some of them, it is probable, may not be good claims; but a very great majority of that number will be, no doubt, just and fair cases.

Then the question is, What may be regarded as a just average value of each vessel and cargo? And this question is answered, in a manner as satisfactory as the nature of the case allows, By ascertaining the average value of vessels and cargoes for which compensation has been awarded under the treaty with Spain. That average was sixteen thousand eight hundred dollars for each vessel and cargo; and, taking the cases coming under this bill to be of the same average value, the whole amount of loss would exceed ten millions of dollars, without interest.

On this estimate, it seems not unreasonable to allow the sum of five millions in full satisfaction for all claims. There is no ground to suppose that the claimants will receive, out of this sum, a greater rate of indemnity than claimants have received who had claims against Spain, or than other claimants against France, whose claims have not been relinquished, because arising since 1800, will receive, under the provisions of the late French convention.

Mr. President, I have performed the duty of explaining this

case to the Senate, as I understand it. I believe the claims to be as just as were ever presented to any government. I think they constitute an honest and well-founded debt, due by the United States to these claimants; a debt which, I am persuaded, the justice of the government, and the justice of the country, will one day both acknowledge and honorably discharge.

THE APPOINTING AND REMOVING POWER.*

MR. PRESIDENT, — The professed object of this bill is the reduction of executive influence and patronage. I concur in the propriety of that object. Having no wish to diminish or to control, in the slightest degree, the constitutional and legal authority of the presidential office, I yet think that the indirect and rapidly increasing influence which it possesses, and which arises from the power of bestowing office and of taking it away again at pleasure, and from the manner in which that power seems now to be systematically exercised, is productive of serious evils.

The extent of the patronage springing from this power of appointment and removal is so great, that it brings a dangerous mass of private and personal interest into operation in all great public elections and public questions. This is a mischief which has reached, already, an alarming height. The principle of republican governments, we are taught, is public virtue; and whatever tends either to corrupt this principle, to debase it, or to weaken its force, tends, in the same degree, to the final overthrow of such governments. Our representative systems suppose, that, in exercising the high right of suffrage, the greatest of all political rights, and in forming opinions on great public measures, men will act conscientiously, under the influence of public principle and patriotic duty; and that, in supporting or opposing men or measures, there will be a general prevalence of honest, intelligent judgment and manly independence. These presumptions lie at the foundation of all hope of maintaining

* A Speech on the Appointing and Removing Power, delivered in the Senate of the United States, on the 16th of February, 1835, on the Passage of the Bill entitled "An Act to repeal the First and Second Sections of the Act to limit the Term of Service of certain Officers therein named."

governments entirely popular. Whenever personal, individual, or selfish motives influence the conduct of individuals on public questions, they affect the safety of the whole system. When these motives run deep and wide, and come in serious conflict with higher, purer, and more patriotic purposes, they greatly endanger that system; and all will admit that, if they become general and overwhelming, so that all public principle is lost sight of, and every election becomes a mere scramble for office, the system inevitably must fall. Every wise man, in and out of government, will endeavor, therefore, to promote the ascendency of public virtue and public principle, and to restrain as far as practicable, in the actual operation of our institutions, the influence of selfish and private interests.

I concur with those who think, that, looking to the present, and looking also to the future, and regarding all the probabilities that await us in reference to the character and qualities of those who may fill the executive chair, it is important to the stability of government and the welfare of the people that there should be a check to the progress of official influence and patronage. The unlimited power to grant office, and to take it away, gives a command over the hopes and fears of a vast multitude of men. It is generally true, that he who controls another man's means of living controls his will. Where there are favors to be granted, there are usually enough to solicit for them; and when favors once granted may be withdrawn at pleasure, there is ordinarily little security for personal independence of character. The power of giving office thus affects the fears of all who are in, and the hopes of all who are out. Those who are *out* endeavor to distinguish themselves by active political friendship, by warm personal devotion, by clamorous support of men in whose hands is the power of reward; while those who are *in* ordinarily take care that others shall not surpass them in such qualities or such conduct as are most likely to secure favor. They resolve not to be outdone in any of the works of partisanship. The consequence of all this is obvious. A competition ensues, not of patriotic labors; not of rough and severe toils for the public good; not of manliness, independence, and public spirit; but of complaisance, of indiscriminate support of executive measures, of pliant subserviency and gross adulation. All throng and rush together to the altar of man-worship;

and there they offer sacrifices, and pour out libations, till the thick fumes of their incense turn their own heads, and turn, also, the head of him who is the object of their idolatry.

The existence of parties in popular governments is not to be avoided; and if they are formed on constitutional questions, or in regard to great measures of public policy, and do not run to excessive length, it may be admitted that, on the whole, they do no great harm. But the patronage of office, the power of bestowing place and emoluments, creates parties, not upon any principle or any measure, but upon the single ground of personal interest. Under the direct influence of this motive, they form round a leader, and they go for "the spoils of victory." And if the party chieftain becomes the national chieftain, he is still but too apt to consider all who have opposed him as enemies to be punished, and all who have supported him as friends to be rewarded. Blind devotion to party, and to the head of a party, thus takes place of the sentiment of generous patriotism and a high and exalted sense of public duty.

Let it not be said, Sir, that the danger from executive patronage cannot be great, since the persons who hold office, or can hold office, constitute so small a portion of the whole people.

In the first place, it is to be remembered that patronage acts, not only on those who actually possess office, but on those also who expect it, or hope for it; and in the next place, office-holders, by their very situation, their public station, their connection with the business of individuals, their activity, their ability to help or to hurt according to their pleasure, their acquaintance with public affairs, and their zeal and devotion, exercise a degree of influence out of all proportion to their numbers.

Sir, we cannot disregard our own experience. We cannot shut our eyes to what is around us and upon us. No candid man can deny that a great, a very great change has taken place, within a few years, in the practice of the executive government, which has produced a corresponding change in our political condition. No one can deny that office, of every kind, is now sought with extraordinary avidity, and that the condition, well understood to be attached to every officer, high or low, is indiscriminate support of executive measures and implicit obedience to executive will. For these reasons, Sir, I am for arresting the

further progress of this executive patronage, if we can arrest it. I am for staying the further contagion of this plague.

The bill proposes two measures. One is to alter the duration of certain offices, now limited absolutely to four years; so that the limitation shall be qualified or conditional. If the officer is in default, if his accounts are not settled, if he retains or misapplies the public money, information is to be given thereof, and thereupon his commission is to cease. But if his accounts are all regularly settled, if he collects and disburses the public money faithfully, then he is to remain in office, unless, for some other cause, the President sees fit to remove him. This is the provision of the bill. It applies only to certain enumerated officers, who may be called accounting officers; that is to say, officers who receive and disburse the public money. Formerly, all these officers held their places at the pleasure of the President. If he saw no just cause for removing them, they continued in their situations, no fixed period being assigned for the expiration of their commissions. But the act of 1820 limited the commissions of these officers to four years. At the end of four years, they were to go out, without any removal, however well they might have conducted themselves, or however useful to the public their further continuance in office might be. They might be nominated again, or might not; but their commissions expired.

Now, Sir, I freely admit that considerable benefit has arisen from this law. I agree that it has, in some instances, secured promptitude, diligence, and a sense of responsibility. These were the benefits which those who passed the law expected from it; and these benefits have, in some measure, been realized. But I think that this change in the tenure of office, together with some good, has brought along a far more than equivalent amount of evil. By the operation of this law, the President can deprive a man of office without taking the responsibility of removing him. The law itself vacates the office, and gives the means of rewarding a friend without the exercise of the power of removal at all. Here is increased power, with diminished responsibility. Here is a still greater dependence, for the means of living, on executive favor, and, of course, a new dominion acquired over opinion and over conduct. The power of removal is, or at least formerly was, a suspected and odious

power. Public opinion would not always tolerate it; and still less frequently did it approve it. Something of character, something of the respect of the intelligent and patriotic part of the community, was lost by every instance of its unnecessary exercise. This was some restraint. But the law of 1820 took it all away. It vacated offices periodically, by its own operation, and thus added to the power of removal, which it left still existing in full force, a new and extraordinary facility for the extension of patronage, influence, and favoritism.

I would ask every member of the Senate if he does not perceive, daily, effects which may be fairly traced to this cause. Does he not see a union of purpose, a devotion to power, a cooperation in action, among all who hold office, quite unknown in the earlier periods of the government? Does he not behold, every hour, a stronger development of the principle of personal attachment, and a corresponding diminution of genuine and generous public feeling? Was indiscriminate support of party measures, was unwavering fealty, was regular suit and service, ever before esteemed such important and essential parts of official duty?

Sir, the theory of our institutions is plain; it is, that government is an agency created for the good of the people, and that every person in office is the agent and servant of the people. Offices are created, not for the benefit of those who are to fill them, but for the public convenience; and they ought to be no more in number, nor should higher salaries be attached to them, than the public service requires. This is the theory. But the difficulty in practice is, to prevent a direct reversal of all this; to prevent public offices from being considered as intended for the use and emolument of those who can obtain them. There is a headlong tendency to this, and it is necessary to restrain it by wise and effective legislation. There is still another, and perhaps a greatly more mischievous result, of extensive patronage in the hands of a single magistrate, to which I have already incidentally alluded; and that is, that men in office have begun to think themselves mere agents and servants of the appointing power, and not agents of the government or the country. It is, in an especial manner, important, if it be practicable, to apply some corrective to this kind of feeling and opinion. It is necessary to bring back public officers to the

conviction, that they belong to the country, and not to any administration, nor to any one man. The army is the army of the country; the navy is the navy of the country; neither of them is either the mere instrument of the administration for the time being, nor of him who is at the head of it. The post-office, the land-office, the custom-house, are, in like manner, institutions of the country, established for the good of the people; and it may well alarm the lovers of free institutions, when all the offices in these several departments are spoken of, in high places, as being but "spoils of victory," to be enjoyed by those who are successful in a contest, in which they profess this grasping of the spoils to have been the object of their efforts.

This part of the bill, therefore, Sir, is a subject for fair comparison. We have gained something, doubtless, by limiting the commissions of these officers to four years. But have we gained as much as we have lost? And may not the good be preserved, and the evil still avoided? Is it not enough to say, that if, at the end of four years, moneys are retained, accounts unsettled, or other duties unperformed, the office shall be held to be vacated, without any positive act of removal?

For one, I think the balance of advantage is decidedly in favor of the present bill. I think it will make men more dependent on their own good conduct, and less dependent on the will of others. I believe it will cause them to regard their country more, their own duty more, and the favor of individuals less. I think it will contribute to official respectability, to freedom of opinion, to independence of character; and I think it will tend, in no small degree, to prevent the mixture of selfish and personal motives with the exercise of high political duties. It will promote true and genuine republicanism, by causing the opinion of the people respecting the measures of government, and the men in government, to be formed and expressed without fear or favor, and with a more entire regard to their true and real merits or demerits. It will be, so far as its effects reach, an auxiliary to patriotism and public virtue, in their warfare against selfishness and cupidity.

The second check on executive patronage contained in this bill is of still greater importance than the first. This provision is, that, whenever the President removes any of these officers from office, he shall state to the Senate the reasons for such re-

moval. This part of the bill has been opposed, both on constitutional grounds and on grounds of expediency.

The bill, it is to be observed, expressly recognizes and admits the actual existence of the power of removal. I do not mean to deny, and the bill does not deny, that, at the present moment, the President may remove these officers at will, because the early decision adopted that construction, and the laws have since uniformly sanctioned it. The law of 1820, intended to be repealed by this bill, expressly affirms the power. I consider it, therefore, a settled point; settled by construction, settled by precedent, settled by the practice of the government, and settled by statute. At the same time, after considering the question again and again within the last six years, I am very willing to say, that, in my deliberate judgment, the original decision was wrong. I cannot but think that those who denied the power in 1789 had the best of the argument; and yet I will not say that I know myself so thoroughly as to affirm, that this opinion may not have been produced, in some measure, by that abuse of the power which has been passing before our eyes for several years. It is possible that this experience of the evil may have affected my view of the constitutional argument. It appears to me, however, after thorough and repeated and conscientious examination, that an erroneous interpretation was given to the Constitution, in this respect, by the decision of the first Congress; and I will ask leave to state, shortly, the reasons for that opinion, although there is nothing in this bill which proposes to disturb that decision.

The Constitution nowhere says one word of the power of removal from office, except in the case of conviction on impeachment. Wherever the power exists, therefore, except in cases of impeachment, it must exist as a constructive or incidental power. If it exists in the President alone, it must exist in him because it is attached to something else, or included in something else, or results from something else, which is granted to the President. There is certainly no specific grant; it is a power therefore, the existence of which, if proved at all, is to be proved by inference and argument. In the only instance in which the Constitution speaks of removal from office, as I have already said, it speaks of it as the exercise of *judicial* power; that is to say, it speaks of it as one part of the judgment of the Senate,

in cases of conviction on impeachment. No other mention is made, in the whole instrument, of any power of removal. Whence, then, is the power derived to the President?

It is usually said, by those who maintain its existence in the single hands of the President, that the power is derived from that clause of the Constitution which says, "The executive power shall be vested in a President." The power of removal, they argue, is, in its nature, an executive power; and, as the executive power is thus vested in the President, the power of removal is necessarily included.

It is true, that the Constitution declares that the executive power shall be vested in the President; but the first question which then arises is, *What is executive power? What is the degree, and what are the limitations?* Executive power is not a thing so well known, and so accurately defined, as that the written constitution of a limited government can be supposed to have conferred it in the lump. What *is* executive power? What are its boundaries? What model or example had the framers of the Constitution in their minds, when they spoke of "executive power"? Did they mean executive power as known in England, or as known in France, or as known in Russia? Did they take it as defined by Montesquieu, by Burlamaqui, or by De Lolme? All these differ from one another as to the extent of the executive power of government. What, then, was intended by "the executive power"? Now, Sir, I think it perfectly plain and manifest, that, although the framers of the Constitution meant to confer executive power on the President, yet they meant to define and limit that power, and to confer no more than they did thus define and limit. When they say it shall be vested in a President, they mean that one magistrate, to be called a President, shall hold the executive authority; but they mean, further, that he shall hold this authority according to the grants and limitations of the Constitution itself.

They did not intend, certainly, a sweeping gift of prerogative. They did not intend to grant to the President whatever might be construed, or supposed, or imagined to be executive power; and the proof that they meant no such thing is, that, immediately after using these general words, they proceed specifically to enumerate his several distinct and particular authorities; to fix and define them; to give the Senate an essential control over

the exercise of some of them, and to leave others uncontrolled. By the executive power conferred on the President, the Constitution means no more than that portion which itself creates, and which it qualifies, limits, and circumscribes.

A general survey of the frame of the Constitution will satisfy us of this. That instrument goes all along upon the idea of dividing the powers of government, so far as practicable, into three great departments. It describes the powers and duties of these departments in an article allotted to each. As first in importance and dignity, it begins with the legislative department. The first article of the Constitution, therefore, commences with the declaration, that "all legislative power herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." The article goes on to prescribe the manner in which Congress is to be constituted and organized, *and then proceeds to enumerate, specifically, the powers intended to be granted;* and adds the general clause, conferring such authority as may be necessary to carry granted powers into effect. Now, Sir, no man doubts that this is a limited legislature; that it possesses no powers but such as are granted by express words or necessary implication; and that it would be quite preposterous to insist that Congress possesses any particular legislative power, merely because it is, in its nature, a legislative body, if no grant can be found for it in the Constitution itself.

Then comes, Sir, the second article, creating an executive power; and it declares, that "the executive power shall be vested in a President of the United States." After providing for the mode of choosing him, it immediately proceeds to enumerate, specifically, the powers which he shall possess and exercise, and the duties which he shall perform. I consider the language of this article, therefore, precisely analogous to that in which the legislature is created; that is to say, I understand the Constitution as saying that "the executive power *herein granted* shall be vested in a President of the United States."

In like manner, the third article, or that which is intended to arrange the judicial system, begins by declaring that "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish." But these general words do

not show *what extent* of judicial power is vested in the courts of the United States. All that is left to be done, and is done, in the following sections, by express and well-guarded provisions.

I think, therefore, Sir, that very great caution is to be used, and the ground well considered, before we admit that the President derives any distinct and specific power from those general words which vest the executive authority in him. The Constitution itself does not rest satisfied with these general words. It immediately goes into particulars, and carefully enumerates the several authorities which the President shall possess. The very first of the enumerated powers is the command of the army and navy. This, most certainly, is an executive power. And why is it particularly set down and expressed, if any power was intended to be granted under the general words? This would pass, if any thing would pass, under those words. But enumeration, specification, particularization, was evidently the design of the framers of the Constitution, in this as in other parts of it. I do not, therefore, regard the declaration that the executive power shall be vested in a President as being any grant at all; any more than the declaration that the legislative power shall be vested in Congress constitutes, by itself, a grant of such power. In the one case, as in the other, I think the object was to describe and denominate the department, which should hold, respectively, the legislative and the executive authority; very much as we see, in some of the State constitutions, that the several articles are headed with the titles "legislative power," "executive power," "judicial power"; and this entitling of the articles with the name of the power has never been supposed, of itself, to confer any authority whatever. It amounts to no more than naming the departments.

If, then, the power of removal be admitted to be an executive power, still it must be sought for and found among the enumerated executive powers, or fairly implied from some one or more of them. It cannot be implied from the general words. The power of appointment was not left to be so implied; why, then, should the power of removal have been so left? They are both closely connected; one is indispensable to the other; why, then, was one carefully expressed, defined, and limited, and not one word said about the other?

Sir, I think the whole matter is sufficiently plain. Nothing is

said in the Constitution about the power of removal, because it is not a separate and distinct power. It is part of the power of appointment, naturally going with it or necessarily resulting from it. The Constitution or the laws may separate these powers, it is true, in a particular case, as is done in respect to the judges, who, though appointed by the President and Senate, cannot be removed at the pleasure of either or of both. So a statute, in prescribing the tenure of any other office, may place the officer beyond the reach of the appointing power. But where no other tenure is prescribed, and officers hold their places at will, that will is necessarily the will of the appointing power; because the exercise of the power of appointment at once displaces such officers. The power of placing one man in office necessarily implies the power of turning another out. If one man be Secretary of State, and another be appointed, the first goes out by the mere force of the appointment of the other, without any previous act of removal whatever. And this is the practice of the government, and has been, from the first. In all the removals which have been made, they have generally been effected simply by making other appointments. I cannot find a case to the contrary. There is no such thing as any distinct official act of removal. I have looked into the practice, and caused inquiries to be made in the departments, and I do not learn that any such proceeding is known as an entry or record of the removal of an officer from office; and the President could only act, in such cases, by causing some proper record or entry to be made, as proof of the fact of removal. I am aware that there have been some cases in which notice has been sent to persons in office that their services are, or will be, after a given day, dispensed with. These are usually cases in which the object is, not to inform the incumbent that he is *removed*, but to tell him that a successor either is, or by a day named will be, appointed. If there be any instances in which such notice is given without express reference to the appointment of a successor, they are few; and even in these, such reference must be implied; because in no case is there any distinct official act of removal, that I can find, unconnected with the act of appointment. At any rate, it is the usual practice, and has been from the first, to consider the appointment as producing the removal of the previous incumbent. When the President desires to remove a

person from office, he sends a message to the Senate nominating some other person. The message usually runs in this form: "I nominate A. B. to be collector of the customs, &c., in the place of C. D., removed." If the Senate advise and consent to this nomination, C. D. is effectually out of office, and A. B. is in, in his place. The same effect would be produced, if the message should say nothing of any removal. Suppose A. B. to be Secretary of State, and the President to send us a message, saying merely, "I nominate C. D. to be Secretary of State." If we confirm this nomination, C. D. becomes Secretary of State, and A. B. is necessarily removed.

I have gone into these details and particulars, Sir, for the purpose of showing, that, not only in the nature of things, but also according to the practice of the government, the power of removal is incident to the power of appointment. It belongs to it, is attached to it, forms a part of it, or results from it.

If this be true, the inference is manifest. If the power of removal, when not otherwise regulated by Constitution or law, be part and parcel of the power of appointment, or a necessary incident to it, then whoever holds the power of appointment holds also the power of removal. But it is the President and the Senate, and not the President alone, who hold the power of appointment; and therefore, according to the true construction of the Constitution, it should be the President and Senate, and not the President alone, who hold the power of removal.

The decision of 1789 has been followed by a very strange and indefensible anomaly, showing that it does not rest on any just principle. The natural connection between the appointing power and the removing power has, as I have already stated, always led the President to bring about a removal by the process of a new appointment. This is quite efficient for his purpose, when the Senate confirms the new nomination. One man is then turned out, and another put in. But the Senate sometimes *rejects* the new nomination; and what then becomes of the old incumbent? Is he out of office, or is he still in? He has not been turned out by any exercise of the power of appointment, for no appointment has been made. That power has not been exercised. He has not been removed by any distinct and separate act of removal, for no such act has been performed, or attempted. Is he still in, then, or is he out? Where is he? In

this dilemma, Sir, those who maintain the power of removal as existing in the President alone are driven to what seems to me very near absurdity. The incumbent has not been removed by the appointing power, since the appointing power has not been exercised. He has not been removed by any distinct and independent act of removal, since no such act has been performed.

They are forced to the necessity, therefore, of contending that the removal has been accomplished by the mere *nomination* of a successor; so that the removing power is made incident, not to the appointing power, but to one part of it; that is, to the *nominating* power. The nomination, not having been assented to by the Senate, it is clear, has failed, as the first step in the process of appointment. But though thus rendered null and void in its main object, as the first process in making an appointment, it is held to be good and valid, nevertheless, to bring about that which *results from an appointment;* that is, the removal of the person actually in office. In other words, the nomination produces the consequences of an appointment, or some of them, though it be itself no appointment, and effect no appointment. This, Sir, appears to me to be any thing but sound reasoning and just construction.

But this is not all. The President has sometimes sent us a nomination to an office already filled, and, before we have acted upon it, has seen fit to withdraw it. What is the effect of such a nomination? If a *nomination*, merely as such, turns out the present incumbent, then he is out, let what will become afterwards of the nomination. But I believe the President has acted upon the idea that a nomination made, and at any time afterwards withdrawn, does *not* remove the actual incumbent.

Sir, even this is not the end of the inconsistencies into which the prevailing doctrine has led. There have been cases in which nominations to offices already filled have come to the Senate, remained here for weeks, or months, the incumbents all the while continuing to discharge their official duties, and relinquishing their offices only when the nominations of their successors have been confirmed, and commissions issued to them; so that, if a nomination be confirmed, the *nomination itself* makes no removal; the removal then waits to be brought about by the *appointment*. But if the nomination be *rejected*,

then the *nomination itself*, it is contended, has effected the removal. Who can defend opinions which lead to such results?

These reasons, Sir, incline me strongly to the opinion, that, upon a just construction of the Constitution, the power of removal is part of, or a necessary result from, the power of appointment, and, therefore, that it *ought to have been* exercised by the Senate concurrently with the President.

The argument may be strengthened by various illustrations. The Constitution declares that Congress may vest the appointment of inferior officers in the President alone, in the courts of law, or in the heads of departments; and Congress has passed various acts providing for appointments, according to this regulation of the Constitution. Thus the Supreme Court, and other courts of the United States, have authority to appoint their clerks; heads of departments also appoint their own clerks, according to statute provisions; and it has never been doubted that these courts, and these heads of departments, may remove their clerks at pleasure, although nothing is said in the laws respecting such power of removal. Now, it is evident that neither the courts nor the heads of departments acquire the right of removal under a general grant of executive power, for none such is made to them; nor upon the ground of any general injunction to see the laws executed, for no such general injunction is addressed to them. They nevertheless hold the power of removal, as all admit, and they must hold it, therefore, simply as incident to, or belonging to, the power of appointment. There is no other clause under which they can possibly claim it.

Again; let us suppose that the Constitution had given to the President the power of appointment, without consulting the Senate. Suppose it had said, "The President shall appoint ambassadors, other public ministers, judges of the Supreme Court, and all other officers of the United States." If the Constitution had stood thus, the President would unquestionably have possessed the power of removal, where the tenure of office was not fixed; and no man, I imagine, would in that case have looked for the removing power either in that clause which says the executive authority shall be vested in the President, or in that other clause which makes it his duty to see the laws faithfully executed. Every body would have said, "The President possesses an uncontrolled power of appointment, and that

necessarily carries with it an uncontrolled power of removal, unless some permanent tenure be given to the office by the Constitution, or by law."

And now, Sir, let me state, and examine, the main argument, on which the decision of 1789 appears to rest it.

The most plausible reasoning brought forward on that occasion may be fairly stated thus: — "The executive power is vested in the President; this is the general rule of the Constitution. The association of the Senate with the President, in exercising a particular function belonging to the executive power, is an exception to this general rule, and exceptions to general rules are to be taken strictly; therefore, though the Senate partakes of the appointing power, by express provision, yet, as nothing is said of its participation in the removing power, such participation is to be excluded."

The error of this argument, if I may venture to call it so, considering who used it,* lies in this. It supposes the power of removal to be held by the President under the general grant of executive power. Now, it is certain that the power of appointment is not held under that general grant, because it is particularly provided for, and is conferred, in express terms, on the President and Senate. If, therefore, the power of removal be a natural appendage to the power of appointment, then it is not conferred by the general words granting executive power to the President, but is conferred by the special clause which gives the appointing power to the President and Senate. So that the spirit of the very rule on which the argument of 1789, as I have stated it, relies, appears to me to produce a directly opposite result; for, if exceptions to a general rule are to be taken strictly, when expressed, it is still more clear, when they are not expressed at all, that they are not to be implied except on evident and clear grounds; and as the general power of appointment is confessedly given to the President and Senate, no exception is to be implied in favor of one part of that general power, namely, the removing part, unless for some obvious and irresistible reason. In other words, this argument which I am answering is not sound in its premises, and therefore not sound in its conclusion, if the grant of the power of appointment does naturally

* Mr. Madison. See the Discussion in Gales and Seaton's Debates in Congress, Vol. I. p. 473 *et seq.*

include also the power of removal, when this last power is not otherwise expressly provided for; because, if the power of removal belongs to the power of appointment, or necessarily follows it, then it has gone with it into the hands of the President and Senate; and the President does not hold it alone, as an implication or inference from the grant to him of general executive powers.

The true application of that rule of construction, thus relied on, would present the argument, I think, in this form: "The appointing power is vested in the President and Senate; this is the general rule of the Constitution. The removing power is part of the appointing power; it cannot be separated from the rest, but by supposing that an exception was intended; but all exceptions to general rules are to be taken strictly, even when expressed; and, for a much stronger reason, they are not to be implied, when not expressed, unless inevitable necessity of construction requires it."

On the whole, Sir, with the diffidence which becomes one who is reviewing the opinions of some of the ablest and wisest men of the age, I must still express my own conviction, that the decision of Congress in 1789, which separated the power of removal from the power of appointment, was founded on an erroneous construction of the Constitution, and that it has led to great inconsistencies, as well as to great abuses, in the subsequent, and especially in the more recent, history of the government.

Much has been said now, and much was said formerly, about the inconvenience of denying this power to the President alone. I agree that an argument drawn from this source may have weight, in a doubtful case; but it is not to be permitted that we shall presume the existence of a power merely because we think it would be convenient. Nor is there, I think, any such glaring, striking, or certain inconvenience as has been suggested. Sudden removals from office are seldom necessary; we see how seldom, by reference to the practice of the government under all administrations which preceded the present. And if we look back over the removals which have been made in the last six years, there is no man who can maintain that there is one case in a hundred in which the country would have suffered the least inconvenience if no removal had been made without the con-

sent of the Senate. Party might have felt the inconvenience, but the country never. Many removals have been made (by new appointments) during the session of the Senate; and if there has occurred one single case, in the whole six years, in which the public convenience required the removal of an officer in the recess, such case has escaped my recollection. Besides, it is worthy of being remembered, when we are seeking for the true intent of the Constitution on this subject, that there is reason to suppose that its framers expected the Senate would be in session a much larger part of the year than the House of Representatives, so that its concurrence could generally be had, at once, on any question of appointment or removal.

But this argument, drawn from the supposed inconvenience of denying an absolute power of removal to the President, suggests still another view of the question. The argument asserts, that it must have been the intention of the framers of the Constitution to confer the power on the President, for the sake of convenience, and as an absolutely necessary power in his hands. Why, then, did they leave their intent doubtful? *Why did they not confer the power in express terms?* Why were they thus totally silent on a point of so much importance?

Seeing that the removing power naturally belongs to the appointing power; seeing that, in other cases, in the same Constitution, its framers have left the one with the consequence of drawing the other after it, — if, in this instance, they meant to do what was uncommon and extraordinary, that is to say, if they meant to separate and divorce the two powers, why did they not say so? Why did they not express their meaning in plain words? Why should they take up the appointing power, and carefully define it, limit it, and restrain it, and yet leave to vague inference and loose construction an equally important power, which all must admit to be closely connected with it, if not a part of it? If others can account for all this silence respecting the removing power, upon any other ground than that the framers of the Constitution regarded both powers as one, and supposed they had provided for them together, I confess I cannot. I have the clearest conviction, that they looked to no other mode of displacing an officer than by impeachment, or by the regular appointment of another person to the same place.

But, Sir, whether the decision of 1789 were right or wrong,

the bill before us applies to the actually existing state of things, It recognizes the President's power of removal, in express terms, as it has been practically exercised, independently of the Senate. The present bill does not disturb the power; but I wish it not to be understood that the power is, even now, beyond the reach of legislation. I believe it to be within the just power of Congress to reverse the decision of 1789, and I mean to hold myself at liberty to act, hereafter, upon that question, as I shall think the safety of the government and of the Constitution may require. The present bill, however, proceeds upon the admission that the power does at present exist. Its words are: —

"Sec. 3. *And be it further enacted*, That, in all nominations made by the President to the Senate, to fill vacancies occasioned by the exercise of the President's power to remove the said officers mentioned in the second section of this act, the fact of the removal shall be stated to the Senate, at the same time that the nomination is made, with a statement of the reasons for which such officer may have been removed."

In my opinion, this provision is entirely constitutional, and highly expedient.

The regulation of the tenure of office is a common exercise of legislative authority, and the power of Congress in this particular is not at all restrained or limited by any thing contained in the Constitution, except in regard to judicial officers. All the rest is left to the ordinary discretion of the legislature. Congress may give to offices which it creates (except those of judges) what duration it pleases. When the office is created, and is to be filled, the President is to nominate the candidate to fill it; but when he comes into the office, he comes into it upon the conditions and restrictions which the law may have attached to it. If Congress were to declare by law that the Attorney-General, or the Secretary of State, should hold his office during good behavior, I am not aware of any ground on which such a law could be held unconstitutional. A provision of that kind in regard to such officers might be unwise, but I do not perceive that it would transcend the power of Congress.

If the Constitution had not prescribed the tenure of judicial office, Congress might have thought it expedient to give the judges just such a tenure as the Constitution has itself provided; that is

o say, a right to hold during good behavior; and I am of opin-on, that such a law would have been perfectly constitutional. It s by law, in England, that the judges are made independent of he removing power of the crown. I do not think that the Con-titution, by giving the power of appointment, or the power both f appointment and removal, to the President and Senate, in-ended to impose any restraint on the legislature, in regard to its uthority of regulating the duties, powers, duration, or responsi-ility of office. I agree, that Congress ought not to do any thing hich shall essentially impair that right of nomination and ap-ointment of certain officers, such as ministers, judges, &c., which he Constitution has vested in the President and Senate. But hile the power of nomination and appointment is left fairly here the Constitution has placed it, I think the whole field of egulation is open to legislative discretion. If a law were to ass, declaring that district attorneys, or collectors of customs, hould hold their offices four years, unless removed on convic-on for misbehavior, no one could doubt its constitutional valid-y; because the legislature is naturally competent to prescribe e tenure of office. And is a reasonable check on the power of moval any thing more than a qualification of the tenure of fice? Let it be always remembered, that the President's moving power, as now exercised, is claimed and held under e general clause vesting in him the executive authority. It is nplied, or inferred, from that clause alone.

Now, if it is properly derived from that source, since the Con-itution does not say how it shall be limited, how defined, or ow carried into effect, it seems especially proper for Congress, nder the general provision of the Constitution which gives it uthority to pass all laws necessary to carry into effect the pow-rs conferred on any department, to regulate the subject of re-oval. And the regulation here required is of the gentlest kind. t only provides that the President shall make known to the enate his reasons for removal of officers of this description, hen he does see fit to remove them. It might, I think, very stly go farther. It might, and perhaps it ought, to prescribe he form of removal, and the proof of the fact. It might, I also hink, declare that the President should only suspend officers, at easure, till the next meeting of the Senate, according to the mendment suggested by the honorable member from Kentucky;

and, if the present practice cannot be otherwise checked, this provision, in my opinion, ought hereafter to be adopted. But I am content with the slightest degree of restraint which may be sufficient to arrest the totally unnecessary, unreasonable, and dangerous exercise of the power of removal. I desire only, for the present at least, that, when the President turns a man out of office, he should give his reasons for it to the Senate, when he nominates another person to fill the place. Let him give these reasons, and stand on them. If they are fair and honest, he need have no fear in stating them. It is not to invite any trial; it is not to give the removed officer an opportunity of defence; it is not to excite controversy and debate; it is simply that the Senate, and ultimately the public, may know the grounds of removal. I deem this degree of regulation, at least, necessary; unless we are willing to submit all these officers to an absolute and a perfectly irresponsible removing power; a power which, as recently exercised, tends to turn the whole body of public officers into partisans, dependants, favorites, sycophants, and man-worshippers.

Mr. President, without pursuing the discussion further, I will detain the Senate only while I recapitulate the opinions which I have expressed; because I am far less desirous of influencing the judgment of others, than of making clear the grounds of my own judgment.

I think, then, Sir, that the power of appointment naturally and necessarily includes the power of removal, where no limitation is expressed, nor any tenure but that at will declared. The power of appointment being conferred on the President *and Senate*, I think the power of removal went along with it, and should have been regarded as a part of it, and exercised by the same hands. I think, consequently, that the decision of 1789, which *implied* a power of removal separate from the appointing power, was erroneous.

But I think the decision of 1789 has been established by practice, and recognized by subsequent laws, as the settled construction of the Constitution, and that it is our duty to act upon the case accordingly, for the present; without admitting that Congress may not, hereafter, if necessity shall require it, reverse the decision of 1789. I think the legislature possesses the power of regulating the condition, duration, qualification, and tenure

of office, in all cases where the Constitution has made no express provision on the subject.

I am, therefore, of opinion, that it is competent for Congress to declare by law, as one qualification of the tenure of office, that the incumbent shall remain in place till the President shall remove him, for reasons to be stated to the Senate. And I am of opinion that this qualification, mild and gentle as it is, will have *some* effect in arresting the evils which beset the progress of the government, and seriously threaten its future prosperity.

These are the reasons for which I give my support to this bill.

THE REGULATION OF THE DEPOSITS.*

AMONGST the amendments moved by Mr. Webster to the bill for regulating the deposits of the public money, and adopted, was the following additional section, viz. : —

" Section 9. That all the warrants or drafts of the Treasurer of the United States, or such as shall be authorized by the Treasury Department, drawn on any deposit bank, shall be payable in gold and silver, if the holder desire to receive the same; and no such warrant or draft, nor any check, draft, or bill of exchange, given or received in payment thereof, shall be expressed to be payable in 'current bank-bills,' or in any other medium than the lawful currency of the country."

On offering this amendment, Mr. Webster spoke as follows : —

IN discussing the provisions and merits of this bill, it is necessary so often to allude to the Bank of the United States, and the withdrawal of the government deposits from that institution, that I will take occasion to say a few words, and they shall be very few, upon that subject. In the first place, I wish to say that I consider the question of renewing the bank charter as entirely settled. It cannot be renewed. Public opinion, very unfortunately, as I think, for the country, has decided against it; and while there is a strong and prevailing sentiment in the minds of the community against a measure, it is quite useless to propose it. For myself, I shall take no part in any attempt to renew the charter of the bank. The people have decided against its continuance, and it must expire.

Nor shall I, if I remain in public life, join in any attempt, at any time hereafter, to establish a new national bank, till experience of its want shall have satisfied the country of its great

* Remarks made in the Senate of the United States, on the 26th of February, 1835, on the Bill to regulate the Deposits of the Public Money.

utility or indispensable necessity. That the time will come when the country will feel the fullest conviction of this necessity, I do not doubt; but that conviction, I think, is likely to be brought about only by experience. If, while I remain here, there shall be a general call of the country for a new national institution, I shall, of course, be ready to aid in its establishment, on principles which have been proved to be safe, and with any amendments which experience may have suggested. But for myself, it is my stated purpose to do nothing more in relation to a national bank, till a decisive lead shall be given in that direction by the public opinion.

In the next place, I wish to say, that the "experiment," upon the success of which gentlemen have felicitated themselves, has not, in my opinion, undergone any trial at all. It has been put to no test.

There are two public objects, both of great importance, in the accomplishment of which the Bank of the United States, in my opinion, has been generally successful. I mean the transmission of public funds, and other facilities to the operations of the treasury, as one of these objects; and a safe, cheap, and admirable system of internal exchanges, as the other. These objects were both attained by the skilful administration of the bank, to such a degree as left little or nothing to be wished. By internal exchanges, I intend the whole operation of internal bills of exchange, and the circulation, also, of a paper currency, always safe, founded on solid capital, and everywhere, in every nook and corner of the country, as well as on the exchanges of the great cities, always of the same value as gold and silver, except, indeed, where the bills of the bank have been preferred to gold and silver, as being better suited to the purposes of remittance. Now, Sir, it has been predicted that the State banks, selected as deposit banks, could equally well accomplish all these objects; that they could as readily, and as completely, facilitate the operations of the treasury; and that they could, and would, also furnish a general currency, as sound and as well accredited; and that they could, and would, conduct the internal exchanges of commerce as safely and as cheaply. Of all this I have doubted; but the day of argument is passed, and the system now awaits the unerring result of experience. But the time for that experience has not yet arrived. Up to the present moment

the country has enjoyed, and does now enjoy, the benefit of the circulation of the bills of the Bank of the United States. The amount of that circulation is now eighteen or twenty millions, and it is diffused over every part of the country, and abounds, more especially, in those places where it is more particularly needed, and, indeed, is kept there because it is there most needed. Here is a medium of exchange everywhere to be had, and to be had without charge. A hundred dollars in gold and silver buy a post-note of the Bank of the United States in New Orleans, or Mobile, or St. Louis, and it is remitted to Philadelphia or New York without danger and without expense. The whole mass of the circulation of the Bank of the United States, therefore, is, at this moment, in active operation, in expediting and facilitating exchanges, and, indeed, in assisting the operations of the treasury, and the deposit banks themselves, by affording a medium of universal credits. The present system, therefore, still rests, substantially, on the Bank of the United States.

It is the credit and the circulation of the bills of that bank which still sustain the accustomed operations of internal commerce; and the bank still exercises all that wholesome control over the currency of the country which it has heretofore done. But the bank is about to expire. These eighteen or twenty millions must be gradually withdrawn from circulation, though they may come in very slowly, and be drawn very reluctantly, from the hands which hold them; so that the circulation of the bills may, more or less, continue for a considerable time after the charter shall expire. In this way I have no doubt of its continuance to do good, for some time after its legal existence shall have ceased. There will be no rush for payment of its notes and bills, because there will be no doubt about the sufficiency of the fund. There will be no haste to get rid of them, because they will be better than any other paper, and better than gold and silver.

But the bank must wind up its affairs; its debts must be collected, and its circulation, after a while, entirely withdrawn. And when this takes place, or begins to take place, then, and not till then, the existing government "experiment" will begin to be put to the proof. At present, all is fair weather; the question is, How will it be, when it becomes necessary to fill up the void occasioned by withdrawing the bills of the Bank of the

United States by notes of the deposit banks? When these banks shall be brought to rely on their own means, their own credit, and their own facilities; when the substantial succor of a universally-accredited paper currency of twenty millions in amount shall be withdrawn, — then the "experiment" will be put on trial.

It is known, Sir, that I am one of those who believe in the impracticability of an exclusive, or of a general, metallic currency. Such a currency is not suited to the age, nor to commercial convenience. The return of the golden age is a dream. There will continue to be banks, and the mass of circulation will be a paper circulation of some kind; and the question is, whether State institutions, associated together as deposit banks, can furnish a sound and universally accredited circulation.

At present, they are not proved capable of any such thing. If a gentleman here wishes to remit money to New England, or to the Ohio River, he certainly does not send bills of the deposit bank of this District. If a single individual has done that, by way of trying the "experiment," he probably will not repeat the trial; and, at any rate, the example is not generally followed. The deposit banks pay specie, which is, so far, very well; and a person with a check on one of those banks can obtain specie, and with that specie he can obtain bills of the Bank of the United States; and this is the process he will go through, if he wishes to remit money, in the shape of bank-notes, to places at any considerable distance. In fact, this is well known to be the only practice. How this is to be effected, when there shall be no longer notes of the Bank of the United States to be had, remains to be seen.

I have said, Sir, the day of trial has not come, and that all as yet seems clear weather. But I have lately learned that there are symptoms of approaching squalls. Some little specks of cloud, at least, make their appearance above the horizon. I learn, from authority not to be questioned, that, within the last week or ten days, a treasury warrant was drawn on a deposit bank in one of the cities, payable in another city. The bank on which the warrant was drawn offered to pay in a check on a bank in the city where the warrant was payable; and when the check was presented, it was found to be made payable in *current bank-notes*. Here, I think, Sir, there is, as I have said, a small cloud darkening the early dawn of the new golden day of our curren-

cy. Even so soon as the present hour, treasury drafts are thus offered to be paid in current bank-notes. I have very good reason to believe, Sir, that other deposit banks draw their checks in like manner, payable in current bank-notes. And I have called the attention of the Senate to these occurrences, not merely to expose the practice, but to correct it also. I wish to stop it at the threshold, by declaring it illegal; and I have prepared a section, which I trust the Senate will see the importance of inserting in this bill.

ON THE LOSS OF THE FORTIFICATION BILL IN 1835.*

It is not my purpose, Mr. President, to make any remark on the state of our affairs with France. The time for that discussion has not come, and I wait. We are in daily expectation of a communication from the President, which will give us light; and we are authorized to expect a recommendation by him of such measures as he thinks it may be necessary and proper for Congress to adopt. I do not anticipate him. In this most important and delicate business, it is the proper duty of the executive to go forward, and I, for one, do not intend either to be drawn or driven into the lead. When official information shall be before us, and when measures shall be recommended upon the proper responsibility, I shall endeavor to form the best judgment I can, and shall act according to its dictates.

I rise, now, for another purpose. This resolution has drawn on a debate upon the general conduct of the Senate during the last session of Congress, and especially in regard to the proposed grant of the three millions to the President on the last night of the session. My main object is to tell the story of this transaction, and to exhibit the conduct of the Senate fairly to the public view. I owe this duty to the Senate. I owe it to the committee with which I am connected; and although whatever is personal to an individual is generally of too little importance to be made the subject of much remark, I hope I may be permitted to say a few words in defence of my own reputation, in reference to a matter which has been greatly misrepresented.

This vote for the three millions was proposed by the House

* A Speech delivered in the Senate of the United States, on the 14th of January, 1836, on Mr. Benton's Resolutions for appropriating the Surplus Revenue to National Defence.

of Representatives as an amendment to the fortification bill; and the loss of that bill, three millions and all, is the charge which has been made upon the Senate, sounded over all the land, and now again renewed. I propose to give the true history of this bill, its origin, its progress, and its loss.

Before attempting that, however, let me remark, for it is worthy to be remarked and remembered, that the business brought before the Senate last session, important and various as it was, and both public and private, was all gone through with most uncommon despatch and promptitude. No session has witnessed a more complete clearing off and finishing of the subjects before us. The communications from the other house, whether bills or whatever else, were especially attended to in a proper season, and with that ready respect which is due from one house to the other. I recollect nothing of any importance which came to us from the House of Representatives, which was neglected, overlooked, or disregarded by the Senate.

On the other hand, it was the misfortune of the Senate, and, as I think, the misfortune of the country, that, owing to the state of business in the House of Representatives towards the close of the session, several measures which had been matured in the Senate, and passed into bills, did not receive attention, so as to be either agreed to or rejected, in the other branch of the legislature. They fell, of course, by the termination of the session.

Among these measures may be mentioned the following, viz.: —

The Post-Office Reform Bill, which passed the Senate *unanimously*, and of the necessity for which the whole country is certainly now most abundantly satisfied;

The Custom-House Regulations Bill, which also passed nearly unanimously, after a very laborious preparation by the Committee on Commerce, and a full discussion in the Senate;

The Judiciary Bill, passed here by a majority of thirty-one to five, and which has again already passed the Senate at this session with only a single dissenting vote;

The bill indemnifying claimants for French spoliations before 1800;

The bill regulating the deposit of the public money in the deposit banks;

THE BILL RESPECTING THE TENURE OF CERTAIN OFFICES, AND THE POWER OF REMOVAL FROM OFFICE; which has now again been passed to be engrossed, in the Senate, by a decided majority.

All these important measures, matured and passed in the Senate in the course of the session, and many others of less importance, were sent to the House of Representatives, and we never heard any thing more from them. They there found their graves.

It is worthy of being remarked, also, that the attendance of members of the Senate was remarkably full, particularly toward the end of the session. On the last day, every Senator was in his place till very near the hour of adjournment, as the journal will show. We had no breaking up for want of a quorum; no delay, no calls of the Senate; nothing which was made necessary by the negligence or inattention of the members of this body. On the vote of the three millions of dollars, which was taken at about eight o'clock in the evening, forty-eight votes were given, every member of the Senate being in his place and answering to his name. This is an instance of punctuality, diligence, and labor, continued to the very end of an arduous session, wholly without example or parallel.

The Senate, then, Sir, must stand, in the judgment of every man, fully acquitted of all remissness, all negligence, all inattention, amidst the fatigue and exhaustion of the closing hours of Congress. Nothing passed unheeded, nothing was overlooked, nothing forgotten, and nothing slighted.

And now, Sir, I would proceed immediately to give the history of the fortification bill, if it were not necessary as introductory to that history, and as showing the circumstances under which the Senate was called on to transact the public business, first to refer to another bill which was before us, and to the proceedings which were had upon it.

It is well known, Sir, that the annual appropriation bills always originate in the House of Representatives. This is so much a matter of course, that no one ever looks to see such a bill first brought forward in the Senate. It is also well known, Sir, that it has been usual, heretofore, to make the annual appropriations for the Military Academy at West Point in the general bill which provides for the pay and support of the army. But last year the army bill did not contain any appropriation whatever

for the support of West Point. I took notice of this singular omission when the bill was before the Senate, but presumed, and indeed understood, that the House would send us a separate bill for the Military Academy. The army bill, therefore, passed; but no bill for the Academy at West Point appeared. We waited for it from day to day, and from week to week, but waited in vain. At length, the time for sending bills from one house to the other, according to the joint rules of the two houses, expired, and no bill had made its appearance for the support of the Military Academy. These joint rules, as is well known, are sometimes suspended on the application of one house to the other, in favor of particular bills, whose progress has been unexpectedly delayed, but which the public interest requires to be passed. But the House of Representatives sent us no request to suspend the rules in favor of a bill for the support of the Military Academy, nor made any other proposition to save the institution from immediate dissolution. Notwithstanding all the talk about a war, and the necessity of a vote for the three millions, the Military Academy, an institution cherished so long, and at so much expense, was on the very point of being entirely broken up.

Now it so happened, Sir, that at this time there was another appropriation bill which had come from the House of Representatives, and was before the Committee on Finance here. This bill was entitled "An Act making appropriations for the civil and diplomatic expenses of the government for the year 1835."

In this state of things, several members of the House of Representatives applied to the committee, and besought us to save the Military Academy by annexing the necessary appropriations for its support to the bill for civil and diplomatic service. We spoke to them, in reply, of the unfitness, the irregularity, the incongruity, of this forced union of such dissimilar subjects; but they told us it was a case of absolute necessity, and that, without resorting to this mode, the appropriation could not get through. We acquiesced, Sir, in these suggestions. We went out of our way. We agreed to do an extraordinary and an irregular thing, in order to save the public business from miscarriage. By direction of the committee, I moved the Senate to add an appropriation for the Military Academy to the bill for

defraying civil and diplomatic expenses. The bill was so amended; and in this form the appropriation was finally made.

But this was not all. This bill for the civil and diplomatic service, being thus amended by tacking the Military Academy to it, was sent back by us to the House of Representatives, where its length of tail was to be still much further increased. That house had before it several subjects for provision, and for appropriation, upon which it had not passed any bill before the time for passing bills to be sent to the Senate had elapsed. I was anxious that these things should, in some way, be provided for; and when the diplomatic bill came back, drawing the Military Academy after it, it was thought prudent to attach to it several of these other provisions. There were propositions to pave the streets in the city of Washington, to repair the Capitol, and various other things, which it was necessary to provide for; and they, therefore, were put into the same bill, by way of amendment to an amendment; that is to say, Mr. President, we had been prevailed on to amend their bill for defraying the salary of our ministers abroad, by adding an appropriation for the Military Academy, and they proposed to amend this our amendment, by adding matter as germain to it, as it was itself to the original bill. There was also the President's gardener. His salary was unprovided for; and there was no way of remedying this important omission, but by giving him place in the diplomatic service bill, among *chargés d'affaires*, envoys extraordinary, and ministers plenipotentiary. In and among these ranks, therefore, he was formally introduced by the amendment of the House, and there he now stands, as you will readily see by turning to the law.

Sir, I have not the pleasure to know this useful person; but should I see him, some morning, overlooking the workmen in the lawns, walks, copses, and parterres which adorn the grounds around the President's residence, considering the company into which we have introduced him, I should expect to see, at least, a small diplomatic button on his working jacket.

When these amendments came from the House, and were read at our table, though they caused a smile, they were yet adopted, and the law passed, almost with the rapidity of a comet, and with something like the same length of tail.

Now, Sir, not one of these irregularities or incongruities, no part of this jumbling together of distinct and different subjects, was in the slightest degree occasioned by any thing done, or omitted to be done, on the part of the Senate. Their proceedings were all regular; their decision was prompt, their despatch of the public business correct and reasonable. There was nothing of disorganization, nothing of procrastination, nothing evincive of a temper to embarrass or obstruct the public business. If the history which I have now truly given shows that one thing was amended by another, which had no sort of connection with it; that unusual expedients were resorted to; and that the laws, instead of arrangement and symmetry, exhibit anomaly, confusion, and the most grotesque associations, it is nevertheless true, that no part of all this was made necessary by us. We deviated from the accustomed modes of legislation only when we were supplicated to do so, in order to supply bald and glaring deficiencies in measures which were before us.

But now, Mr. President, let me come to the fortification bill, the lost bill, which not only now, but on a graver occasion, has been lamented like the lost Pleiad.

This bill, Sir, came from the House of Representatives to the Senate in the usual way, and was referred to the Committee on Finance. Its appropriations were not large. Indeed, they appeared to the committee to be quite too small. It struck a majority of the committee at once, that there were several fortifications on the coast, either not provided for at all, or not adequately provided for, by this bill. The whole amount of its appropriations was four hundred or four hundred and thirty thousand dollars. It contained no grant of three millions, and if the Senate had passed it the very day it came from the House, not only would there have been no appropriation of the three millions, but, Sir, none of these other sums which the Senate did insert in the bill. Others besides ourselves saw the deficiencies of this bill. We had communications with and from the departments, and we inserted in the bill every thing which any department recommended to us. We took care to be sure that nothing else was coming. And we then reported the bill to the Senate with our proposed amendments. Among these amendments, there was a sum of $ 75,000 for Castle Island, in Boston harbor, $ 100,000 for defences in Maryland, and so forth. These

amendments were agreed to by the Senate, and one or two others added, on the motion of members; and the bill, as thus amended, was returned to the House.

And now, Sir, it becomes important to ask, When was this bill, thus amended, returned to the House of Representatives? Was it unduly detained here, so that the House was obliged afterwards to act upon it suddenly? This question is material to be asked, and material to be answered, too, and the journal does satisfactorily answer it; for it appears by the journal that the bill was returned to the House of Representatives on Tuesday, the 24th of February, *one whole week before the close of the session.* And from Tuesday, the 24th of February, to Tuesday, the 3d day of March, we heard not one word from this bill. Tuesday, the 3d day of March, was, of course, the last day of the session. We assembled here at ten or eleven o'clock in the morning of that day, and sat until three in the afternoon, and still we were not informed whether the House had finally passed the bill. As it was an important matter, and belonged to that part of the public business which usually receives particular attention from the Committee on Finance, I bore the subject in my mind, and felt some solicitude about it, seeing that the session was drawing so near to a close. I took it for granted, however, as I had not heard any thing to the contrary, that the amendments of the Senate would not be objected to, and that, when a convenient time should arrive for taking up the bill in the House, it would be passed at once into a law, and we should hear no more about it. Not the slightest intimation was given, either that the executive wished for any larger appropriation, or that it was intended in the House to insert such larger appropriation. Not a syllable escaped from any body, and came to our knowledge, that any further alteration whatever was intended in the bill.

At three o'clock in the afternoon of the 3d of March, the Senate took its recess, as is usual in that period of the session, until five o'clock. At five o'clock we again assembled, and proceeded with the business of the Senate until eight o'clock in the evening; and at eight o'clock in the evening, and not before, the clerk of the House appeared at our door, and announced that the House of Representatives had *disagreed* to one of the Senate's amendments, *agreed* to others; and to two of those amendments,

namely, the fourth and fifth, it had agreed, *with an amendment of its own.*

Now, Sir, these fourth and fifth amendments of ours were, one, a vote of $75,000 for Castle Island in Boston harbor, and the other, a vote of $100,000 for certain defences in Maryland. And what, Sir, was the addition which the House of Representatives proposed to make, by way of "*amendment*" to a vote of $75,000 for repairing the works in Boston harbor? Here, Sir, it is: —

"*And be it further enacted*, That the sum of three millions of dollars be, and the same is hereby, appropriated, out of any money in the treasury not otherwise appropriated, to be expended, in whole or in part, under the direction of the President of the United States, for the military and naval service, including fortifications and ordnance, and the increase of the navy: *Provided*, such expenditures shall be rendered necessary for the defence of the country prior to the next meeting of Congress."

This proposition, Sir, was thus unexpectedly and suddenly put to us, at eight o'clock in the evening of the last day of the session. Unusual, unprecedented, extraordinary, as it obviously is, on the face of it, the manner of presenting it was still more extraordinary. The President had asked for no such grant of money; no department had recommended it; no estimate had suggested it; no reason whatever was given for it. No emergency had happened, and nothing new had occurred; every thing known to the administration, at that hour, respecting our foreign relations, had certainly been known to it for days and weeks.

With what propriety, then, could the Senate be called on to sanction a proceeding so entirely irregular and anomalous? Sir, I recollect the occurrences of the moment very well, and I remember the impression which this vote of the House seemed to make all round the Senate. We had just come out of executive session; the doors were but just opened; and I hardly remember that there was a single spectator in the hall or the galleries. I had been at the clerk's table, and had not reached my seat, when the message was read. All the Senators were in the chamber. I heard the message, certainly with great surprise and astonishment; and I immediately moved the Senate to *disagree*

to this vote of the House. My relation to the subject, in consequence of my connection with the Committee on Finance, made it my duty to propose some course, and I had not a moment's doubt or hesitation what that course ought to be. I took upon myself, then, Sir, the responsibility of moving that the Senate should disagree to this vote, and I now acknowledge that responsibility. It might be presumptuous to say that I took a leading part, but I certainly took an early part, a decided part, and an earnest part, in rejecting this broad grant of three millions of dollars, without limitation of purpose or specification of object, called for by no recommendation, founded on no estimate, made necessary by no state of things which was known to us. Certainly, Sir, I took a part in its rejection; and I stand here, in my place in the Senate, to-day, ready to defend the part so taken by me; or, rather, Sir, I disclaim all defence, and all occasion of defence, and I assert it as meritorious to have been among those who arrested, at the earliest moment, this extraordinary departure from all settled usage, and, as I think, from plain constitutional injunction; this indefinite voting of a vast sum of money to mere executive discretion, without limit assigned, without object specified, without reason given, and without the least control.

Sir, I am told, that, in opposing this grant, I spoke with warmth, and I suppose I may have done so. If I did, it was a warmth springing from as honest a conviction of duty as ever influenced a public man. It was spontaneous, unaffected, sincere. There had been among us, Sir, no consultation, no concert. There could have been none. Between the reading of the message and my motion to disagree, there was not time enough for any two members of the Senate to exchange five words on the subject. The proposition was sudden and perfectly unexpected. I resisted it, as irregular, as dangerous in itself, and dangerous in its precedent; as wholly unnecessary, and as violating the plain intention, if not the express words, of the Constitution. Before the Senate, then, I avowed, and before the country I now avow, my part in this opposition. Whatsoever is to fall on those who sanctioned it, of that let me have my full share.

The Senate, Sir, rejected this grant by a vote of TWENTY-NINE against nineteen. Those twenty-nine names are on the journal;

and whensoever the EXPUNGING process may commence, or how far soever it may be carried, I pray it, in mercy, not to erase mine from that record. I beseech it, in its sparing goodness, to leave me that proof of attachment to duty and to principle. It may draw around it, over it, or through it, black lines, or red lines, or any lines; it may mark it in any way which either the most prostrate and fantastical spirit of *man-worship*, or the most ingenious and elaborate study of self-degradation, may devise, if only it will leave it so that those who inherit my blood, or who may hereafter care for my reputation, shall be able to behold it where it now stands.

The House, Sir, insisted on this amendment. The Senate adhered to its disagreement; the House asked a conference, to which request the Senate immediately acceded. The committee of conference met, and in a very short time came to an agreement. They agreed to recommend to their respective houses, as a substitute for the vote proposed by the House, the following: —

"As an additional appropriation for arming the fortifications of the United States, three hundred thousand dollars."

"As an additional appropriation for the repairs and equipment of ships of war of the United States, five hundred thousand dollars."

I immediately reported this agreement of the committee of conference to the Senate; but, inasmuch as the bill was in the House of Representatives, the Senate could not act further on the matter until the House should first have considered the report of the committee, decided thereon, and sent us the bill. I did not myself take any note of the particular hour of this part of the transaction. The honorable member from Virginia* says he looked at his watch at the time, and he knows that I had come from the conference, and was in my seat, at a quarter past eleven. I have no reason to think that he is under any mistake on this particular. He says it so happened that he had occasion to take notice of the hour, and well remembers it. It could not well have been later than this, as any one will be satisfied who will look at our journals, public and executive, and see what a mass of business was despatched after I came from the commit-

* Mr. Leigh.

tee, and before the adjournment of the Senate. Having made the report, Sir, I had no doubt that both houses would concur in the result of the conference, and looked every moment for the officer of the House bringing the bill. He did not come, however, and I pretty soon learned that there was doubt whether the committee on the part of the House would report to the House the agreement of the conferees. At first, I did not at all credit this; but was confirmed by one communication after another, until I was obliged to think it true. Seeing that the bill was thus in danger of being lost, and intending at any rate that no blame should justly attach to the Senate, I immediately moved the following resolution: —

"*Resolved*, That a message be sent to the honorable the House of Representatives, respectfully to remind the House of the report of the committee of conference appointed on the disagreeing votes of the two houses on the amendment of the House to the amendment of the Senate to the bill respecting the fortifications of the United States."

You recollect this resolution, Sir, having, as I well remember, taken some part on the occasion.*

This resolution was promptly passed; the secretary carried it to the House, and delivered it. What was done in the House on the receipt of this message now appears from the printed journal. I have no wish to comment on the proceedings there recorded; all may read them, and each be able to form his own opinion. Suffice it to say, that the House of Representatives, having then possession of the bill, chose to retain that possession, and never acted on the report of the committee of conference. The bill, therefore, was lost. It was lost in the House of Representatives. It died there, and there its remains are to be found. No opportunity was given to the members of the House to decide whether they would agree to the report of the committee or not. From a quarter past eleven, when the report was agreed to, until two or three o'clock in the morning, the House remained in session. If at any time there was not a quorum of members present, the attendance of a quorum, we are to presume, might have been commanded, as there was undoubtedly a great majority of members still in the city.

* Mr. King, of Alabama, was in the chair.

But, Sir, there is one other transaction of the evening which I now feel bound to state, because I think it quite important, on several accounts, that it should be known.

A nomination was pending before the Senate for a judge of the Supreme Court. In the course of the sitting, that nomination was called up, and, on motion, was indefinitely postponed. In other words, it was rejected; for an indefinite postponement is a rejection. The office, of course, remained vacant, and the nomination of another person to fill it became necessary. The President of the United States was then in the Capitol, as is usual on the evening of the last day of the session, in the chamber assigned to him, and with the heads of departments around him. When nominations are rejected under these circumstances, it has been usual for the President immediately to transmit a new nomination to the Senate; otherwise the office must remain vacant till the next session, as the vacancy in such case has not happened in the recess of Congress. The vote of the Senate, indefinitely postponing this nomination, was carried to the President's room by the secretary of the Senate. The President told the secretary that it was more than an hour past twelve o'clock, and that he could receive no further communications from the Senate, and immediately after, as I have understood, left the Capitol. The secretary brought back the paper containing the certified copy of the vote of the Senate, and indorsed thereon the substance of the President's answer, and also added, that, according to his own watch, it was quarter past one o'clock.

There are two views, Sir, in which this occurrence may well deserve to be noticed. One is as to the connection which it may perhaps have had with the loss of the fortification bill; the other is as to its general importance, as introducing a new rule, or a new practice, respecting the intercourse between the President and the two houses of Congress on the last day of the session.

On the first point, I shall only observe that the fact of the President's having declined to receive this communication from the Senate, and of his having left the Capitol, was immediately known in the House of Representatives. It was quite obvious, that, if he could not receive a communication from the Senate, neither could he receive a bill from the House of Representatives for his signature. It was equally obvious, that, if,

under these circumstances, the House of Representatives should agree to the report of the committee of conference, so that the bill should pass, it must, nevertheless, fail to become a law for want of the President's signature; and that, in that case, the blame of losing the bill, on whomsoever else it might fall, could not be laid upon the Senate.

On the more general point, I must say, Sir, that this decision of the President, not to hold communication with the houses of Congress after twelve o'clock at night, on the 3d of March, is quite new. No such objection has ever been made before by any President. No one of them has ever declined communicating with either house at any time during the continuance of its session on that day. All Presidents heretofore have left with the houses themselves to fix their hour of adjournment, and to bring their session for the day to a close, whenever they saw fit.

It is notorious, in point of fact, that nothing is more common than for both houses to sit later than twelve o'clock, for the purpose of completing measures which are in the last stages of their progress. Amendments are proposed and agreed to, bills passed, enrolled bills signed by the presiding officers, and other important legislative acts performed, often at two or three o'clock in the morning. All this is very well known to gentlemen who have been for any considerable time members of Congress. And all Presidents have signed bills, and have also made nominations to the Senate, without objection as to time, whenever bills have been presented for signature, or whenever it became necessary to make nominations to the Senate, at any time during the session of the respective houses on that day.

And all this, Sir, I suppose to be perfectly right, correct, and legal. There is no clause of the Constitution, nor is there any law, which declares that the term of office of members of the House of Representatives shall expire at twelve o'clock at night on the 3d of March. They are to hold for two years, but the precise hour for the commencement of that term of two years is nowhere fixed by constitutional or legal provision. It has been established by usage and by inference, and very properly established, that, since the first Congress commenced its existence on the first Wednesday in March, 1789, which happened to be the fourth day of the month, therefore the 4th of March is the day of the commencement of each successive term; but no hour

is fixed by law or practice. The true rule is, as I think, most undoubtedly, that the session held on the last day constitutes the last day for all legislative and legal purposes. While the session begun on that day continues, the day itself continues, according to the established practice both of legislative and judicial bodies. This could not well be otherwise. If the precise moment of actual time were to settle such a matter, it would be material to ask, Who shall settle the time? Shall it be done by public authority, or shall every man observe the tick of his own watch? If absolute time is to furnish a precise rule, the excess of a minute, it is obvious, would be as fatal as the excess of an hour. Sir, no bodies, judicial or legislative, have ever been so hypercritical, so astute to no purpose, so much more nice than wise, as to govern themselves by any such ideas. The session for the day, at whatever hour it commences, or at whatever hour it breaks up, is the legislative day. Every thing has reference to the commencement of that diurnal session. For instance, this is the 14th day of January; we assembled here to-day at twelve o'clock; our journal is dated January 14th, and if we should remain here until five o'clock to-morrow morning (and the Senate has sometimes sat so late), our proceedings would still bear date of the 14th of January; they would be so stated upon the journal, and the journal is a record, and is a conclusive record, so far as respects the proceedings of the body.

It is so in judicial proceedings. If a man were on trial for his life, at a late hour on the last day allowed by law for the holding of the court, and the jury should acquit him, but happened to remain so long in deliberation that they did not bring in their verdict till after twelve o'clock, is it all to be held for naught, and the man to be tried over again? Are all verdicts, judgments, and orders of courts null and void, if made after midnight on the day which the law prescribes as the last day? It would be easy to show by authority, if authority could be wanted for a thing the reason of which is so clear, that the day lasts while the daily session lasts. When the court or the legislative body adjourns for that day, the day is over, and not before.

I am told, indeed, Sir, that it is true that, on this same 3d day of March last, not only were other things transacted, but that the bill for the repair of the Cumberland Road, an important and much litigated measure, actually received the signature of our

presiding officer after twelve o'clock, was then sent to the President, and signed by him. I do not affirm this, because I took no notice of the time, or do not remember it if I did; but I have heard the matter so stated.

I see no reason, Sir, for the introduction of this new practice; no principle on which it can be justified, no necessity for it, no propriety in it. As yet, it has been applied only to the President's intercourse with the Senate. Certainly it is equally applicable to his intercourse with both houses in legislative matters; and if it is to prevail hereafter, it is of much importance that it should be known.

The President of the United States, Sir, has alluded to this loss of the fortification bill in his message at the opening of the session, and he has alluded, also, in the same message, to the rejection of the vote of the three millions. On the first point, that is, the loss of the whole bill, and the causes of that loss, this is his language: "Much loss and inconvenience have been experienced in consequence of the failure of the bill containing the ordinary appropriations for fortifications, which passed one branch of the national legislature at the last session, but was lost in the other."

If the President intended to say that the bill, having originated in the House of Representatives, passed the Senate, and was yet afterwards lost in the House of Representatives, he was entirely correct. But he has been wholly misinformed, if he intended to state that the bill, having passed the House, was lost in the Senate. As I have already stated, the bill was lost in the House of Representatives. It drew its last breath there. That House never let go its hold on it after the report of the committee of conference. But it held it, it retained it, and of course it died in its possession when the House adjourned. It is to be regretted that the President should have been misinformed in a matter of this kind, when the slightest reference to the journals of the two houses would have exhibited the correct history of the transaction.

I recur again, Mr. President, to the proposed grant of the three millions, for the purpose of stating somewhat more distinctly the true grounds of objection to that grant.

These grounds of objection were two; the first was, that no such appropriation had been recommended by the President, or

any of the departments. And what made this ground the stronger was, that the proposed grant was defended, so far as it was defended at all, upon an alleged necessity, growing out of our foreign relations. The foreign relations of the country are intrusted by the Constitution to the lead and management of the executive government. The President not only is supposed to be, but usually is, much better informed on these interesting subjects than the houses of Congress. If there be danger of a rupture with a foreign state, he sees it soonest. All our ministers and agents abroad are but so many eyes, and ears, and organs to communicate to him whatsoever occurs in foreign places, and to keep him well advised of all which may concern the interests of the United States. There is an especial propriety, therefore, that, in this branch of the public service, Congress should always be able to avail itself of the distinct opinions and recommendations of the President. The two houses, and especially the House of Representatives, are the natural guardians of the people's money. They are to keep it sacred, and to use it discreetly. They are not at liberty to spend it where it is not needed, nor to offer it for any purpose till a reasonable occasion for the expenditure be shown. Now, in this case, I repeat again, the President had sent us no recommendation for any such appropriation; no department had recommended it; no estimate had contained it; in the whole history of the session, from the morning of the first day, down to eight o'clock in the evening of the last day, not one syllable had been said to us, not one hint suggested, showing that the President deemed any such measure either necessary or proper. I state this strongly, Sir, but I state it truly. I state the matter as it is; and I wish to draw the attention of the Senate and of the country strongly to this part of the case. I say again, therefore, that, when this vote for the three millions was proposed to the Senate, there was nothing before us showing that the President recommended any such appropriation. You very well know, Sir, that this objection was stated as soon as the message from the House was read. We all well remember that this was the very point put forth by the honorable member from Tennessee,* as being, if I may say so, the but-end of his argument in opposition to

* Mr. White.

the vote. He said, very significantly, and very forcibly, "It is not asked for by those who best know what the public service requires; how, then, are we to presume that it is needed?" This question, Sir, was not answered then; it never has been answered since; it never can be answered satisfactorily.

But let me here again, Sir, recur to the message of the President. Speaking of the loss of the bill, he uses these words: "This failure was the more regretted, not only because it necessarily interrupted and delayed the progress of a system of national defence projected immediately after the last war, and since steadily pursued, but also because it contained a contingent appropriation, inserted in accordance with the views of the executive, in aid of this important object, and other branches of the national defence, some portions of which might have been most usefully applied during the past season."

Taking these words of the message, Sir, and connecting them with the fact that the President had made no recommendation to Congress of any such appropriation, it strikes me that they furnish matter for very grave reflection. The President says that this proposed appropriation was "in accordance with the views of the executive"; that it was "in aid of an important object"; and that "some portions of it might have been most usefully applied during the past season."

And now, Sir, I ask, if this be so, why was not this appropriation recommended to Congress by the President? I ask this question in the name of the Constitution of the United States; I stand on its own clear authority in asking it; and I invite all those who remember its injunctions, and who mean to respect them, to consider well how the question is to be answered.

Sir, the Constitution is not yet an entire dead letter. There is yet some form of observance of its requirements; and even while any degree of formal respect is paid to it, I must be permitted to continue the question, Why was not this appropriation recommended? It was in accordance with the President's views; it was for an important object; it might have been usefully expended. The President being of opinion, therefore, that the appropriation was necessary and proper, how is it that it was not recommended to Congress? For, Sir, we all know the plain and direct words in which the very first duty

of the President is imposed by the Constitution. Here they are: —

"He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient."

After enumerating the *powers* of the President, this is the first, the very first *duty* which the Constitution gravely enjoins upon him. And now, Sir, in no language of taunt or reproach, in no language of party attack, in terms of no asperity or exaggeration, but called upon by the necessity of defending my own vote upon the subject, as a public man, as a member of Congress here in my place, and as a citizen who feels as warm an attachment to the Constitution of the country as any other can, I demand of any who may choose to give it an answer to this question: WHY WAS NOT THIS MEASURE, WHICH THE PRESIDENT DECLARES THAT HE THOUGHT NECESSARY AND EXPEDIENT, RECOMMENDED TO CONGRESS? And why am I, and why are other members of Congress, whose path of duty the Constitution says shall be enlightened by the President's opinions and communications, to be charged with want of patriotism and want of fidelity to the country, because we refused an appropriation which the President, though it was in accordance with his views, and though he believed it important, would not, and did not, recommend to us? When these questions are answered to the satisfaction of intelligent and impartial men, then, and not till then, let reproach, let censure, let suspicion of any kind, rest on the twenty-nine names which stand opposed to this appropriation.

How, Sir, were we to know that this appropriation "was in accordance with the views of the executive"? He had not so told us, formally or informally. He had not only not recommended it to Congress, or either house of Congress, but nobody on this floor had undertaken to speak in his behalf. No man got up to say, "The President desires it; he thinks it necessary, expedient, and proper." But, Sir, if any gentleman had risen to say this, it would not have answered the requisition of the Constitution. Not at all. It is not by a hint, an intimation, the suggestion of a friend, that the executive duty in this respect is to be fulfilled. By no means. The President is to make a recommendation; a public recommendation, an official recom-

mendation, a responsible recommendation, not to one house, but to both houses: it is to be a recommendation to Congress. If, on receiving such recommendation, Congress fail to act in proper respect, the fault is theirs. If, deeming the measure necessary and expedient, the President fails to recommend it, the fault is his, clearly, distinctly, and exclusively his. This Sir is the Constitution of the United States, or else I do not understand the Constitution of the United States.

Does not every man see how entirely unconstitutional it is that the President should communicate his opinions or wishes to Congress, on such grave and important subjects, otherwise than by a direct and responsible recommendation, a public and open recommendation, equally addressed and equally known to all whose duty calls upon them to act on the subject? What would be the state of things, if he might communicate his wishes or opinions privately to members of one house, and make no such communication to the other? Would not the two houses be necessarily put in immediate collision? Would they stand on equal footing? Would they have equal information? What could ensue from such a manner of conducting the public business, but quarrel, confusion, and conflict? A member rises in the House of Representatives, and moves a very large appropriation of money for military purposes. If he says he does it upon executive recommendation, where is his voucher? The President is not like the British king, whose ministers and secretaries are in the House of Commons, and who are authorized, in certain cases, to express the opinions and wishes of their sovereign. We have no king's servants: at least, we have none known to the Constitution. Congress can know the opinions of the President only as he officially communicates them. It would be a curious inquiry in either house, when a large appropriation is moved, if it were necessary to ask whether the mover represented the President, spoke his sentiments, or, in other words, whether what he proposed were "in accordance with the views of the executive." How could that be judged of? By the party he belongs to? Party is not quite strongly enough marked for that. By the airs he gives himself? Many might assume airs, if thereby they could give themselves such importance as to be esteemed authentic expositors of the executive will. Or is this will to be circulated in whispers; made know

to the meetings of party men; intimated through the press; or communicated in any other form, which still leaves the executive completely irresponsible; so that, while executive purposes or wishes pervade the ranks of party friends, influence their conduct, and unite their efforts, the open, direct, and constitutional responsibility is wholly avoided? Sir, this is not the Constitution of the United States, nor can it be consistent with any constitution which professes to maintain separate departments in the government.

Here, then, Sir, is abundant ground, in my judgment, for the vote of the Senate, and here I might rest it. But there is also another ground. The Constitution declares that no money shall be drawn from the treasury but in consequence of appropriations made by law. What is meant by "*appropriations*"? Does not this language mean that particular sums shall be assigned by law to particular objects? How far this pointing out and fixing the particular objects shall be carried, is a question that cannot be settled by any precise rule. But "specific appropriation," that is to say, the designation of every object for which money is voted, as far as such designation is practicable, has been thought to be a most important republican principle. In times past, popular parties have claimed great merit from professing to carry this doctrine much farther, and to adhere to it much more strictly, than their adversaries. Mr. Jefferson, especially, was a great advocate for it, and held it to be indispensable to a safe and economical administration and disbursement of the public revenues.

But what have the friends and admirers of Mr. Jefferson to say to this *appropriation?* Where do they find, in this proposed grant of three millions, a constitutional designation of object, and a particular and specific application of money? Have they forgotten, all forgotten, and wholly abandoned even all pretence for specific appropriation? If not, how could they sanction such a vote as this? Let me recall its terms. They are, that "the sum of three millions of dollars be, and the same is hereby, appropriated, out of any money in the treasury not otherwise appropriated, to be expended, in whole or in part, under the direction of the President of the United States, for the military and naval service, including fortifications and ordnance, and the increase of the navy; provided such expenditures shall be rendered neces-

sary for the defence of the country prior to the next meeting of Congress."

In the first place it is to be observed, that whether the money shall be used at all, or not, is made to depend on the discretion of the President. This is sufficiently liberal. It carries confidence far enough. But if there had been no other objections, if the objects of the appropriation had been sufficiently described, so that the President, if he expended the money at all, must expend it for purposes authorized by the legislature, and nothing had been left to his discretion but the question whether an emergency had arisen in which the authority ought to be exercised, I might not have felt bound to reject the vote. There are some precedents which might favor such a contingent provision, though the practice is dangerous, and ought not to be followed except in cases of clear necessity.

But the insurmountable objection to the proposed grant was, that it specified no objects. It was as general as language could make it. It embraced every expenditure that could be called either military or naval. It was to include "fortifications, ordnance, and the increase of the navy," but it was not confined to these. It embraced the whole general subject of military service. Under the authority of such a law, the President might repair ships, build ships, buy ships, enlist seamen, and do any thing and every thing else touching the naval service, without restraint or control.

He might repair such fortifications as he saw fit, and neglect the rest; arm such as he saw fit, and neglect the arming of others; or build new fortifications wherever he chose. But these unlimited powers over the fortifications and the navy constitute by no means the most dangerous part of the proposed authority; because, under that authority, his power to raise and employ land forces would be equally absolute and uncontrolled. He might levy troops, embody a new army, call out the militia in numbers to suit his own discretion, and employ them as he saw fit.

Now, Sir, does our legislation, under the Constitution, furnish any precedent for all this?

We make appropriations for the army, and we understand what we are doing, because it is "the army," that is to say, the army established by law. We make appropriations for the

navy; they, too, are for "the navy," as provided for and established by law. We make appropriations for fortifications, but we say what fortifications, and we assign to each its intended amount of the whole sum. This is the usual course of Congress on such subjects; and why should it be departed from? Are we ready to say that the power of fixing the places for new fortifications, and the sum allotted to each; the power of ordering new ships to be built, and fixing the number of such new ships; the power of laying out money to raise men for the army; in short, every power, great or small, respecting the military and naval service, shall be vested in the President, without specification of object or purpose, to the entire exclusion of the exercise of all judgment on the part of Congress? For one, I am not prepared. The honorable member from Ohio, near me, has said, that if the enemy had been on our shores he would not have agreed to this vote. And I say, if the proposition were now before us, and the guns of the enemy were pointed against the walls of the Capitol, I would not agree to it.

The people of this country have an interest, a property, an inheritance, in this INSTRUMENT, against the value of which forty capitols do not weigh the twentieth part of one poor scruple. There can never be any necessity for such proceedings but a feigned and false necessity; a mere idle and hollow pretence of necessity; least of all can it be said that any such necessity actually existed on the 3d of March. There was no enemy on our shores; there were no guns pointed against the Capitol; we were in no war, nor was there a reasonable probability that we should have war, unless we made it ourselves.

But whatever was the state of our foreign relations, is it not preposterous to say, that it was necessary for Congress to adopt this measure, and yet not necessary for the President to recommend it? Why should we thus run in advance of all our own duties, and leave the President completely shielded from his just responsibility? Why should there be nothing but trust and confidence on our side, and nothing but discretion and power on his?

Sir, if there be any philosophy in history, if human blood still runs in human veins, if man still conforms to the identity of his nature, the institutions which secure constitutional liberty can never stand long against this excessive personal confidence,

against this devotion to men, in utter disregard both of principle and experience, which seem to me to be strongly characteristic of our times. This vote came to us, Sir, from the popular branch of the legislature; and that such a vote should come from such a branch of the legislature was among the circumstances which excited in me the greatest surprise and the deepest concern. Certainly, Sir, certainly I was not, on that account, the more inclined to concur. It was no argument with me, that others seemed to be rushing, with such heedless, headlong rush, such impetuosity of confidence, into the arms of executive power. I held back the more strongly, and would not back the longer. I see, or I think I see,—it is either a true vision of the future, revealed by the history of the past, or, if it be an illusion, it is an illusion which appears to me in all the brightness and sunlight of broad noon,—that it is in this career of personal confidence, along this beaten track of man-worship, marked at every stage by the fragments of other free governments, that our own system is making progress to its close. A personal popularity, honorably earned at first by military achievements, and sustained now by party, by patronage, and by enthusiasm which looks for no ill, because it means no ill itself, seems to render men willing to gratify power, even before its demands are made, and to surfeit executive discretion, even in anticipation of its own appetite.

If, Sir, on the 3d of March last, it had been the purpose of both houses of Congress to create a military dictator, what formula had been better suited to their purpose than this vote of the House? It is true, we might have given more money, if we had had it to give. We might have emptied the treasury; but as to the *form* of the gift, we could not have bettered it. Rome had no better models. When we give our money *for any military purpose whatever*, what remains to be done? If we leave it with one man to decide, not only whether the military means of the country shall be used at all, but how they shall be used, and to what extent they shall be employed, what remains under for Congress or the people but to sit still and see how the dictatorial power will be exercised? On the 3d of March, Sir, I had not forgotten, it was impossible that I should have forgotten, the recommendation in the message at the opening of that session, that power should be vested in the President to issue let-

ters of marque and reprisal against France, at his discretion, in the recess of Congress. Happily, this power was not granted; but suppose it had been, what would then have been the true condition of this government? Why, Sir, this condition is very shortly described. The whole war power would have been in the hands of the President; for no man can doubt a moment that reprisals would bring on immediate war; and the treasury, to the amount of this vote, in addition to all ordinary appropriations, would have been at his absolute disposal also. And all this in a time of peace. I beseech all true lovers of constitutional liberty to contemplate this state of things, and tell me whether such be a truly republican administration of this government. Whether particular consequences had ensued or not, is such an accumulation of power in the hands of the executive according to the spirit of our system? Is it either wise or safe? Has it any warrant in the practice of former times? Or are gentlemen ready to establish the practice, as an example for the benefit of those who are to come after us?

But, Sir, if the power to make reprisals, and this money from the treasury, had both been granted, is there not great reason to believe that we should have been now actually at war? I think there is great reason to believe this. It will be said, I know, that if we had armed the President with this power of war, and supplied him with this grant of money, France would have taken it for such a proof of spirit on our part, that she would have paid the indemnity without further delay. This is the old story, and the old plea. It is the excuse of every one who desires more power than the Constitution or the laws give him, that if he had more power he could do more good. Power is always claimed for the good of the people; and dictators are always made, when made at all, for the good of the people. For my part, Sir, I was content, and am content, to show France that we are prepared to maintain our just rights against her by the exertion of our power, when need be, according to the forms of our own Constitution; that, if we make war, we will make it constitutionally; and that we will trust all our interests, both in peace and war, to what the intelligence and the strength of the country may do for them, without breaking down or endangering the fabric of our free institutions.

Mr. President, it is the misfortune of the Senate to have dif-

fered with the executive on many great questions during the last four or five years. I have regretted this state of things deeply, both on personal and on public accounts; but it has been unavoidable. It is no pleasant employment, it is no holiday business, to maintain opposition against power and against majorities, and to contend for stern and sturdy principle, against personal popularity, against a rushing and overwhelming confidence, that, by wave upon wave and cataract after cataract, seems to be bearing away and destroying whatsoever would withstand it. How much longer we may be able to support this opposition in any degree, or whether we can possibly hold out till the public intelligence and the public patriotism shall be awakened to a due sense of the public danger, it is not for me to foretell. I shall not despair to the last, if, in the mean time, we are true to our own principles. If there be a steadfast adherence to these principles, both here and elsewhere, if, one and all, they continue the rule of our conduct in the Senate, and the rallying-point of those who think with us and support us out of the Senate, I am content to hope on and to struggle on. While it remains a contest for the preservation of the Constitution, for the security of public liberty, for the ascendency of principles over men, I am willing to bear my part of it. If we can maintain the Constitution, if we can preserve this security for liberty, if we can thus give to true principle its just superiority over party, over persons, over names, our labors will be richly rewarded. If we fail in all this, they are already among the living who will write the history of this government, from its commencement to its close.

SLAVERY AND THE SLAVE TRADE IN THE DISTRICT OF COLUMBIA.*

AGREEABLY to notice, I offer sundry petitions on the subject of slavery and the slave trade in the District of Columbia. The first purports to be signed by two thousand four hundred and twenty-five of the female inhabitants of Boston. This petition is in the usual printed form. It is respectful to Congress, and contains no reproaches against any body. It asks for the consideration of Congress with respect both to the existence of slavery and the slave trade in the District of Columbia.

The second is a petition signed by Joseph Filson, and about a hundred others, citizens of Boston, some of whom are known to me, and are highly respectable persons. The petition is to the same effect, and in the same form.

The third petition appears to be signed by a large number of persons, inhabitants of Wayne County, in Michigan. I am not acquainted with them. It is a printed petition, different in form from the preceding, drawn more at length, and going farther into the subject. I perceive nothing in it disrespectful to the Senate, or reproachful to others.

The fourth petition is like the first two in substance and in form. It is signed by four hundred and thirty-three citizens of Boston. Among these signers, Sir, I recognize the names of many persons well known to me as gentlemen of great worth and respectability. There are clergymen, lawyers, merchants, literary men, manufacturers, and indeed persons from all classes of society.

I ask, Sir, that these petitions may be received, and I move

* Remarks made in the Senate of the United States, on the 16th of March, 1836, on presenting sundry Abolition Petitions.

that they be referred to the Committee on the District of Columbia. This motion itself, Sir, sufficiently shows in what manner I think this subject ought to be treated in the Senate.

The petitioners ask Congress to consider the propriety and expediency of two things; first, of making provision for the extinction of slavery in the District; second, of abolishing or restraining the trade in slaves within the District. Similar petitions have already been received by the Senate. Those gentlemen who think Congress have no power over any part of the subject, if they are clear and settled in that opinion, were perfectly justifiable in voting not to receive them. Any petition which, in our opinion, asks us to do that which is plainly against the Constitution, we might very justly reject. If persons, for instance, should petition us to pass a law abridging the freedom of the press, or respecting an establishment of religion, such petition would very properly be denied any reception at all.

In doubtful cases, we should incline to receive and consider; because doubtful cases ought not to be decided without consideration. But I cannot regard this case as a doubtful one. I think the constitutional power of Congress over the subject is clear, and therefore that we were bound to receive the petitions. And a large majority of the Senate are also of opinion, that petitions of this kind ought to be received.

I have often, Mr. President, expressed the opinion, that over slavery, as it exists in the States, this government has no control whatever. It is entirely and exclusively a State concern. And while it is thus clear that Congress has no direct power over the subject, it is our duty to take care that the authority of this government is not brought to bear upon it by any indirect interference whatever. It must be left to the States, to the course of things, and to those causes over which this government has no control. All this, in my opinion, is in the clear line of our duty.

On the other hand, believing that Congress has constitutional power over slavery, and the trade in slaves, within the District, I think petitions on those subjects, respectfully presented, ought to be respectfully viewed, and respectfully considered. The respectful mode, the proper mode, is the ordinary mode. We have a committee on the affairs of the District. For very obvious reasons, and without any reference to this question, this

committee is ordinarily composed principally of Southern gentlemen. For many years a member from Virginia or Maryland has, I believe, been at the head of the committee. The committee, therefore, is the appropriate one, and there can be no possible objection to it on account of the manner in which it is constituted.

Now I believe, Sir, that the unanimous opinion of the North is, that Congress has no authority over slavery in the States; and it is perhaps equally unanimous in the opinion, that over slavery in the District it has such rightful authority.

Then, Sir, the question is a question of the fitness, propriety, justice, and expediency of considering these two subjects, or either of them, according to the prayer of these petitions.

It is well known to us and to the country, that Congress has hitherto entertained inquiries on both these points. On the 9th of January, 1809, the House of Representatives resolved, by very large majorities, "That the Committee on the District of Columbia be instructed to take into consideration the laws within the District in respect to slavery; that they inquire into the slave trade as it exists in, and is carried on through, the District; and that they report to the House such amendments to the existing laws as shall seem to them to be just."

It resolved also, "That the committee be further instructed to inquire into the expediency of providing by law for the gradual abolition of slavery within the District, in such manner that the interest of no individual shall be injured thereby."

As early as March, 1816, the same House, on the motion of Mr. Randolph, of Virginia, resolved, "That a committee be appointed to inquire into the existence of an inhuman and illegal traffic of slaves carried on in and through the District of Columbia, and to report whether any, and what, measures are necessary for putting a stop to the same."

It is known, also, Sir, that the legislature of Pennsylvania has within a very few years urged upon Congress the propriety of providing for the abolition of slavery in the District. The House of Assembly of New York, about the same time, I think, passed a similar vote.

After these proceedings, Mr. President, which were generally known, I think the country was not at all prepared to find that these petitions would be objected to, on the ground that they

asked for the exercise of an authority on the part of Congress, which Congress cannot constitutionally exercise; or that, having been formally received, the prayer of them, in regard to both objects, would be immediately rejected, without reference to a committee, and without any inquiry.

Now, Sir, the propriety, justice, and fitness of any interference of Congress, for either of the purposes stated in the petitions, are the points on which, as it seems to me, it is highly proper for a committee to make a report. The well-disposed and patriotic among these petitioners are entitled to be respectfully answered; and if there be among them others whose motives are less praiseworthy, it is not the part of prudence to give them the advantage which they would derive from a right to complain that the Senate had acted hastily or summarily on their petitions, without inquiry or consideration.

Let the committee set forth their own views on these points, dispassionately, fully, and candidly; let the argument be seen and heard; let the people be trusted with it; and I have no doubt that a fair discussion of the subject will produce its proper effect, both in and out of the Senate.

This, Sir, would have been, and is, the course of proceeding which appears to me to be prudent and just. The Senate, however, having decided otherwise, by a very large majority, I only say so much, on the present occasion, as may suffice to make my own opinions known

In reply to Mr. King of Alabama, Mr. Webster said: —

I am not aware of having said any thing which can justify the remarks of the honorable member. By what authority does the gentleman say that I have placed myself at the head of these petitioners? The gentleman cannot be allowed, Sir, to assign to me any place or any character which I do not choose to take to myself. I have only expressed my opinion as to the course which it is prudent and wise in us all to adopt, in disposing of these petitions.

It is true that, while the question on the reception of the petitions was pending, I observed that I should hold back these petitions till that question was decided. It is decided. The Senate has decided to receive the petitions; and being received, the manner of treating them must necessarily be settled. The

origin of the authority of Congress over this District; the views and objects of the States in ceding the territory; the little interest which this government has in the general question of slavery, and the great magnitude of the interest which individual States have in it; the great danger to the government itself of agitating the question here while things remain in their present posture in the States around us, — these, Sir, are considerations all intimately belonging to the question, as I think, and which a competent committee would naturally present to the Senate and to the public.

Mr. President, I feel bound to make one further remark. Whatever gentlemen may think of it, I assure them that these petitions, at least in many cases, have no factious origin, no political or party origin. Such may be the origin of some of them. I am quite sure it is not of all. Many of them arise from a sense of religious duty; and that is a feeling which should be reasoned with, but cannot be suppressed by a mere summary exercise of authority. I wish that all reasonable men may be satisfied with our proceedings; and that we may so act in regard to the whole matter as shall promote harmony, strengthen the bonds of our Union, and increase the confidence, both of the North and the South, in this government.

THE DEPOSIT BANKS.*

A STATEMENT of the affairs of the deposit banks having been transmitted by the Secretary of the Treasury, Mr. Webster moved that three thousand extra copies should be printed, and in support of this motion spoke as follows: —

SIR, — I would, in making this motion, call the attention of the Senate to the document from the treasury showing the state of the deposit banks at the latest dates, and from the tabular statement quote some of the leading facts.

The immediate liabilities of the banks amount, it appears, to nearly seventy-two millions of dollars; viz. the public deposits, $30,678,879.91; the private deposits, $15,043,033.64; the bills in circulation, $26,243,688.36. The amount of specie held by these banks, it further appears, is $10,198,659.24; that is to say, there is less than one dollar of specie for six dollars of debt; and there is due to the government by those banks more than three times the amount of all the specie. There are other items which swell the amounts on each side, such as debts due to banks, and debts due from banks. But these are only equalling quantities, and of no moment in the view I am taking of the question.

Among the means of these deposit banks I see an item of "other investments" of no less amount than $8,777,228.79. What is meant by these "other investments," I am not informed. I wish for light. I have my suspicions, but I have no proofs. Sir, look at the reported state of the Farmers and Mechanics' Bank of Michigan, the last in the list. The capital of

* Remarks made in the Senate of the United States, on the Deposit Banks on the 17th of March, 1836.

its safety? Is that con-
per? The member from
bill to regulate these deposit
up, that we may at least have an
ourselves, what we think the exi-

that bank is only $150,000. Its portion of the public deposits is no less a sum than $784,764.75. Now, Sir, *where is this money?* It is not in specie in the bank itself. All its specie is only $51,011.95; all its discounts, loans, &c., are only $500,000, or thereabouts. *Where is the residue?* Why, we see where it is; it is included in the item "*due from banks*, $678,766.37." What banks have got this? On what terms do they take it? Do they give interest for it? Is it in the deposit banks in the great cities? and does this make a part of the *other liabilities* of these deposit banks in the cities? What are these other liabilities? But as to these "other investments," I say again, I wish to know what they are. Besides real estate, loans, discount, and exchange, I beg to know what *other investments* banks usually make.

In my opinion, Sir, the present system now begins to develop itself. We see what a complication of private and pecuniary interests have thus wound themselves around our finances. While the present state of things continues, or as it goes on, there will be no lack of ardor in opposing the land bill, or any other proposition for distributing or effectually using the public money.

We have certainly arrived at a very extraordinary crisis; a crisis which we must not trifle with. The accumulation of revenue must be prevented. Every wise politician will set that down as a cardinal maxim. How can it be prevented? Fortifications will not do it. This I am perfectly persuaded of. I shall vote for every part and parcel of the fortification bill, reported by the Military Committee. And yet I am sure, that, if that bill should pass into a law, it will not absorb the revenue or sufficiently diminish its amount. Internal improvements cannot absorb it; these useful channels are blocked up by vetoes. How, then, is this revenue to be disposed of? I put this question seriously to all those who are inclined to oppose the land bill now before the Senate.

Sir, look to the future, and see what will be the state of things next autumn. The accumulation of revenue may then probably be near fifty millions; an amount *equal, perhaps, to the whole amount of specie in the country.* What a state of things is that! Every dollar in the country the property of government!

Again, Sir, are gentlemen satisfied with the present condi-

tion of the public money in regard to its safety? Is that condition safe, commendable, and proper? The member from South Carolina has brought in a bill to regulate these deposit banks. I hope he will call it up, that we may at least have an opportunity of showing, for ourselves, what we think the exigency requires.

PAYMENTS FOR THE PUBLIC LANDS IN GOLD AND SILVER.*

MR. PRESIDENT, — I should be fully justified, in common with those with whom I am accustomed to act, in taking no active course in regard to this resolution; in sitting still, suppressing, if possible, our surprise and astonishment, and letting these schemes and projects take the form of such laws as their projectors might propose.

We are powerless now, and can do nothing. We have resisted since 1832 all these measures affecting the currency of the country and the security of the public treasure. We have done so unsuccessfully. We struggled for the recharter of the Bank of the United States in 1832. The utility of such an institution had been proved by forty years' experience. We struggled against the removal of the deposits. That act, as we thought, was a direct usurpation of power. We strove against the experiment, and all in vain. Our opinions were disregarded, our warnings neglected, and we are now in no degree responsible for the mischiefs which are but too likely to ensue.

Who will look with the perception of an intelligent, and the candor of an honest man, upon the present condition of our finances and currency, and say that this want of credit and confidence which is so general, and which, it is possible, may ere long overspread the land with bankruptcies and distress, has not flowed directly from those measures, the adoption of which we so strenuously resisted, and the folly of which men of all parties,

* Remarks made in the Senate of the United States, on the 23d of April, 1836, on the following Resolution, submitted by Mr. Benton: —

"*Resolved*, That, from and after the —— day of ——, in the year 1836, nothing but gold and silver ought to be received in payment for the public lands; and that the Committee on Public Lands be instructed to report a bill accordingly."

however reluctantly, will soon be brought to acknowledge? The truth of this assertion is palpable and resistless.

What, Sir, are the precise evils under which the finances of the government, and, I believe, of the country, now suffer? They are obviously two; the superabundance of the treasury, and its insecurity. We have more money than we need, and that money, not being in custody under any law, and being in hands over which we have no control, is threatened with danger. Now, Sir, is it not manifest that these evils flow directly from measures of government which some of us have zealously resisted? May not each be traced to its distinct source? There would have been no surplus in the treasury, but for the veto of the land bill, so called, of 1833. This is certain. And as to the security of the public money, it would have been at this moment entirely safe, but for the veto of the act continuing the bank charter. Both these measures had received the sanction of Congress, by clear and large majorities. They were both negatived; the reign of experiments, schemes, and projects commenced, and here we are. Every thing that is now amiss in our financial concerns is the direct consequence of extraordinary exercises of executive authority. This assertion does not rest on general reasoning. Facts prove it. One veto has deprived the government of a safe custody for the public moneys, and another veto has caused their present augmentation.

What, Sir, are the evils which are distracting our financial operations? They are obviously two. The public money is not safe; it is protected by no law. The treasury is overflowing. There is more money than we need. The currency is unsound. Credit has been diminished, and confidence destroyed. And what do these two evils, the insecurity of the public money and its abundance, result from? They trace their origin directly to the two celebrated experiments; the veto of the bank bill, followed by the removal of the deposits, and the rejection of the land bill. No man doubts that the public money would have remained safe in the Bank of the United States, if the executive veto of 1832 had not disturbed it.

It was that veto, also, which, by discontinuing the national bank, removed the great and salutary check to the immoderate issue of paper money, and encouraged the creation of so many State banks. This is another of the products of that veto.

This is as plain as that; the rejection of the land bill of 1833, by depriving the country of a proper, necessary, and equal distribution of the surplus fund, has produced this redundancy in the treasury. If the wisdom of Congress had been trusted, the country would not have been plunged into its present difficulties. They devised the only means by which the peace and prosperity of the people could have been secured. They passed the bank charter; it was negatived. They passed the land bill, and it met the same fate. This extraordinary exercise of power, in these two instances, has produced an exactly corresponding mischief, in each case, upon the subjects to which it was applied. Its application to the bill providing for the recharter of the Bank of the United States has been followed by the present insecurity of the public treasure, and a superabundance of money not wanted has been the consequence of its application to the land bill.

The country is the victim of schemes, projects, and reckless experiments. We are wiser, or we think ourselves so, than those who have gone before us. Experience cannot teach us. We cannot let well enough alone. The experience of forty years was insufficient to settle the question whether a national bank was useful or not; and forty years' practice of the government could not decide whether it was constitutional or not. And it is worthy of all consideration, that undue power has been claimed by the executive. One thing is certain, and that is, there has been a constant and corresponding endeavor to diminish the constitutional power of Congress. The bank charter was negatived, because Congress had no power under the Constitution to grant it; and yet, though Congress had no authority to create a national bank, the executive at once exercised the power to select and appoint as many banks as he pleased, and to place the public moneys in their hands on just such terms and conditions as he pleased.

There is not a more palpable evidence of the constant bias of this government to a wrong tendency, than this continued attempt to make legislative power yield to that of the executive. The restriction of the just authority of Congress is followed in every case by the increase of the power of the executive. What was it that caused the destruction of the United States Bank, and put the whole moneyed power of the country into the hands

of one man? Constitutional doubts of the power of Congress! What has produced this superabundance of money in the treasury? Constitutional doubts of the power of Congress! In the whole history of this administration, doctrines have prevailed, whose direct tendency is to detract from the settled and long-practised power of Congress, and to give in full measure, hand over hand, every thing into the control of the executive. Do gentlemen wish me to exemplify the truth of this? Let them look at the bank bill, the land bill, and the various bills which have been negatived respecting internal improvements.

Gentlemen now speak of returning to a specie basis. Does any man suppose it practicable? The resolution now under consideration contemplates that, after the current year, all payments for the public lands are to be made in specie. Now, if I had brought forward a proposition like this, I should at once have been accused of being opposed to the settlement of the new States. It would have been urged that speculators and capitalists could easily carry gold and silver to the West, by sea or land, while the cultivator, who wished to purchase a small farm, would be compelled to give the former their own price for the land, because he could not visit large cities, or other places where it was to be found, and procure the specie. These arguments, I am sure, would have met me, had I introduced a measure like this. If specie payments are to be made for public dues, I should suppose it best to begin with the customs, which are payable in large cities, where gold and silver can be more easily procured than on the frontiers. But whether from speculators or settlers, what is the use of these specie payments? The money is dragged over the mountains to be dragged back again; that is all. The purchaser of public lands will buy gold by bills on the Eastern cities; it will go across the country in panniers or wagons; the Land Office will send it back again by the return carriage, and thus create the useless expense of transportation.

I have from the very first looked upon all these schemes as totally idle and illusory; as not in accordance with the practice of other nations, or suited to our own policy, or our own active condition. But the effect of this resolution, what will it be? Let them try it. Let them go on. Let them add to the catalogue of projects. Let them cause every man in the West, who has a five-dollar bank-note in his pocket, to set off, post

haste, to the bank, lest somebody else should get there first, and get out all the money, and then buy land. How long will the Western banks stand this? Yet, if gentlemen please, let them go on. I shall dissent; I shall protest; I shall speak my opinions; but I shall still say, Go on, gentlemen, and let us see the upshot of your experimental policy.

The currency of the country is, to a great degree, in the power of the banking companies in the great cities. I am much opposed to the increase of these institutions; but the evil has begun, and cannot be averted. What one State does, another will do also. Danger and misfortune appear to be threatening the currency of the country; and although the Constitution gives the control over it to Congress, yet Congress is allowed to do nothing. Congress, and not the States, have the coining power; yet the States issue paper as a substitute for coin, and Congress is not supposed to be able to regulate, control, or redeem it. We have the sole power over the currency; but we possess no means of exercising that power. Congress, according to the prevailing doctrines, can create no bank, regulated by law; but the executive can appoint twenty or fifty banks, without any law whatever. A very peculiar state of things exists in this country at this moment; a country in the highest state of prosperity, more bountifully blest by Providence in all things than any other nation on earth, and yet in the midst of great pecuniary distress, its finances deranged, and an increasing want of confidence felt in its circulation. But the experiment was to cure all this. A few select and favorite banks were to give us a secure currency, one better and more practically beneficial than that of the United States Bank. And here is the result, or rather, to use the expression of M. de Talleyrand, here is "the beginning of the end."

We were told that these banks would do as well, if not a great deal better, for all the purposes of exchange, than the United States Bank; that they could negotiate as cheaply, and with as much safety; and yet the rate is now one and a half, if not two per cent., between Cincinnati and New York. Indeed, exchanges are all deranged, and in confusion. Sometimes they are at high rates both ways, between two points. Looking, then, to the state of the currency, the insecurity of the public money, and the rates of exchange, let me ask any honest and intelligent

man, of whatever party, What has been the result of these experiments? Does any gentleman still doubt? Let him look to the disclosures made by the circular of one of the deposit banks of Ohio, which was read by an honorable Senator here a day or two since. That bank will not receive the notes of the specie-paying banks of that State from the Land Office, as I understand the circular, or, at any rate, it tells the Land Office that it will not. Here are thirty or forty specie-paying banks in Ohio, all of good credit, and out of the whole number three are to be selected, entitled to no more confidence than the others, whose notes are to be taken for public lands. If gentlemen from the West and Southwest are satisfied with this arrangement, I certainly greatly commend their quiescent temperament.

I said, in the commencement of my remarks, I know of nothing I can do in regard to the resolution, except to sit still and see how far gentlemen will go, and what this state of things will end in. Here is this vast surplus revenue under no control whatever, and from appearances, though the session is nearly over, likely to remain so. Two measures of the highest importance have been proposed; one to diminish this fund, another to secure its safety. I wish to understand, and the country to know, whether any thing is to be done with either of these propositions. For my own part, I believe that a national bank is the only security for the national treasure; but as there is no such institution, a more extended use should be made of this treasure, and in its distribution no preference should be given, as was the fact in the instance of the banks of Ohio, to which I have just alluded. In some way or other this fund must be distributed. It is absolutely necessary. The provisions of the land bill seem to me eminently calculated to effect this object; but if that measure shall not be adopted, I will give my vote for any proper and equitable measure which may be brought forward, let it come from what quarter it may. In all probability, there will be a diminution in the amount of land sales for some time to come. The purchases of the last year, I suppose, have exceeded the demands of emigration. They were made by speculators, for the purpose of holding up lands for increased prices. The spirit of speculation, indeed, seems to be very much directed to the acquisition of the public lands. I cannot say what will be the further progress, or where the end, of these things; but

I think one thing quite clear, and that is, that the existing surplus ought to be distributed.

I repeat, that I intend no detailed opposition to the measure now before the Senate; and had I been in my seat, I should not have opposed the amendment to the pension bill. Let the experiments, one and all, have their course. I shall do nothing except to vote against all these visionary projects, until the country shall become convinced that a sound currency, and with it a general security for property and the earnings of honest labor, are things of too much importance to be sacrificed to mere projects, whether political or financial.

After some remarks by Mr. Niles of Connecticut, and Mr. Benton of Missouri, Mr. Webster said: —

The gentleman from Missouri has referred to the resolution of 1816; and I will beg leave to make a brief explanation in reference to the part I bore in it. The events of the war had greatly deranged the currency of the country, and a great pecuniary pressure was felt from one end of the continent to the other. The war took place in 1812, and not two months of it had passed before there was a cessation of specie payments by at least two thirds of all the banks of the country. So strong was the pressure, that, although the enemy blockaded the Chesapeake, so that not a barrel of pork or flour could be sent to market, yet the prices of these articles rose fifty per cent. This state of things continued; the collectors of the customs everywhere received the notes of their own local banks for duties payable at their own places, but would not receive the bills of the banks of the other cities. And what was the consequence? Why, at the close of the session of Congress, a member, if he had been fortunate enough to preserve any of his pay, had to give twenty-five per cent. to get the money received here exchanged for money that he could carry home. Another effect of this state of the currency was this. The Constitution provided that, in the regulation of commerce or revenue, no preference should be given to the ports of one State over those of another. Yet Baltimore, for instance, which had the exchange against her, had an advantage, by the payment of her duties in the bills of her banks, of at least twenty-five per cent. over some Northern cities. The resolution then introduced by me was to provide that the reve-

nue should be equally paid in all parts of the United States; and what was the effect of it? The bank bill had just passed, and the resolution was, that all debts due the government should be paid in the legal coin, in notes of the Bank of the United States, or in notes of banks that paid coin on demand. That was the operation of the resolution of 1816, rendered absolutely necessary by the existing state of things.

The gentleman from Connecticut inquires whether the omission to use the powers of Congress necessarily increases that of the executive. I will put a poser to the gentleman. The President himself admits that it is the appropriate duty of Congress to take the public treasure into its hands, and appoint agents to take care of it. The gentleman himself must admit this, for I suppose that he does not go the lengths of the Senator from Tennessee in being willing that things should remain as they were. Then, if it is their duty to take care of the national treasure, and they do not do it, it will go into the hands of the executive. Is not the custody of the national treasure power? and if they neglect to use this power, do they not augment the power of the executive?

The future historian of recent events in this country will find no topic more important and prominent, than a review of the doctrines which have been advanced with regard to executive power, and the means employed to increase it. The President himself first advanced the doctrine, and it has been repeated here, that the President is the sole representative of the people of the United States. Does the Constitution make him so? Does the Constitution acknowledge any other representative of the people than the members of the other house? But it has been found extremely convenient to those who wish to increase the President's power to give him this title. This claim of the President reminds me of a remark made many years ago by a member of the House of Representatives. That gentleman had voted against the first Bank of the United States, and had changed his mind, and was about to vote for the second. If, said the gentleman, the people have given us the power to make a bank, we can do it; and if they have not, we are the representatives of the people, and can take the power. And this is the doctrine applied to the President as the peculiar representative of the people. The Constitution gives him a modi-

cum of power, and he, claiming the lion's part, takes all the rest. This is the result of that overwhelming personal popularity which leads men to disregard all the received maxims of the founders of this government, and to yield up all power into the hands of one man. They cannot even now quote the doctrines of Mr. Jefferson without being scouted, and they cannot resist any power claimed by the executive, however arbitrary, but must yield up every thing to him by one universal confidence, because he is the representative of the people.

After further remarks by Mr. Niles, Mr. Webster said: —

It is the best course, when a gentleman replies to another, to use his very words as far as his recollection permits him. I have noticed, on other occasions, that the Senator from Connecticut gives his own language as that of the gentleman he is replying to, puts his own construction upon it, and then replies to this man of straw. I hope that the gentleman will, when he quotes me in future, use my exact language, and not put into my mouth words that I do not use. The gentleman, in speaking of the President, used the term representative of the people precisely in the meaning of the term as applied to a member of the House of Representatives. Now, it is impossible to believe in any idea of power pertaining to the President in this character. But I would remind the Senator that the President himself, in more than one communication, has claimed this character and power. It will be found in the Protest that he is the only single representative of the people. Sir, this is the very essence of consolidation, and in the worst of hands. Do we not all know that the people have not one representative? Do we not know that the States are divided into Congressional districts, each of which elects a representative, and that the States themselves are represented by two members on this floor? Do we not all know, that the framers of the Constitution carefully avoided giving him any such power at all? I admit that the President, in reference to his popularity merely, is called, with great propriety, the representative of the people; but in other respects he is no more so than was the President of the old Congress.

THE LOUISVILLE CANAL.*

Mr. President, — I regret the warmth with which my friend from Ohio,† and my friend from Louisiana,‡ have spoken on this occasion; but while I regret it, I can hardly say I blame it. They have expressed disappointment, and I think they may well feel disappointment. I confess, Sir, I feel disappointment also. Looking to the magnitude of this object, looking to its highly interesting character to the West, looking to the great concern which our Western friends have manifested for its success, I myself feel, not only disappointment, but, in some degree, mortification, at the result of the vote which has now been taken. That vote, if it stands, must be decisive of the success of the measure.

No doubt, Sir, it is altogether vain to pass this bill, unless it contain such provisions as will induce the stockholders in the corporation to part with their interests.

In the first place, Sir, why do we hear so much reproach and denunciation against the members of this corporation? Have they not hazarded their property in an undertaking of great importance and utility to the country? Has not Congress itself encouraged their enterprise, by taking a part of the stock on account of the government? Are we not ourselves shareholders in this company? Their tolls, it is said, are large; that is true. Yet not only did they run all the risks usually attending such enterprises, but, even with their large tolls, all their receipts, up to this hour, by no means give a return from their

* Remarks made in the Senate of the United States, on the Bill to authorize the Purchase, on the part of the Government, of the Private Stock in the Louisville and Portland Canal, on the 25th of May, 1836.

† Mr. Ewing. ‡ Mr. Porter.

capital equal to the ordinary interest of money in that part of the country.

There appears to me very great injustice in speaking of their tolls as "fines," and "penalties," and unjust impositions, or of their charter as an odious monopoly. Who called it so, or who so thought of it, when it was granted to them? Who but they were willing to undertake the work, to advance the money, and to run the risks and chances of failure? Who then blamed, reproached, or denounced the enterprising individuals who hazarded their money in a project to make a canal around the Falls of the Ohio? Who then spoke of their tolls as impositions, fines, and penalties? Nobody, Sir. Then all was encouragement and cheering onward. The cry was then, Go on! run the hazard; try the experiment; let our vessels and boats have a passage round this obstruction; make an effort to overcome this great obstacle. If you fail, the loss, indeed, will be yours; but if you succeed, all the world will agree that you ought to be fairly and fully remunerated for the risk and expenditure of capital.

Sir, we are bound in all justice and fairness to respect the legal rights of these corporators. For one, I not only respect their legal rights, but I honor their enterprise, I commend their perseverance, and I think they deserve well of the community.

But nevertheless, Sir, I am for making this navigation free. If there were no canal, I should be for making one, or for devising other modes of removing the obstructions in the river. As there is a canal, now the subject of private ownership and private property, I am for buying it out, and opening it, toll free, to all who navigate the river. In my opinion, this work is of importance enough to demand the attention of government. To be sure it is but a canal, and a canal round the falls of a river; but that river is the Ohio. It is one of those vast streams which form a part of the great water communication of the West. It is one of those running seas which bear on their bosom the riches of Western commerce. It is a river; but to the uses of man, to the purposes of trade, to the great objects of communication, it is one of those rivers which has the character of an ocean. Indeed, when one looks at the map, and glances his eye on all these rivers, he sees at once water enough to constitute or to fill an ocean, pouring from different, distant,

and numerous sources, and flowing many thousand miles, in various channels, with breadth and depth of water in each sufficient for all the purposes of rapid communication and extensive trade. And if, in any portion of these inland seas, we find obstructions which the hand of man can remove, who can say that such removal is not an object worthy the attention of government?

Whoever, Mr. President, would do his duty, and his whole duty, in the councils of this government, must look upon the country as it is, in its whole length and breadth. He must comprehend it in its vast extent, its novel character, its sudden development, its amazing progress, confounding all calculation, and almost overwhelming the imagination. Our rivers are not the rivers of the European world. We have not to deal with the Trent, the Thames, and the Severn. With us, at least in this part of our country, navigation from the sea does not stop where the tide stops. Our ports and harbors are not at the mouths of rivers only, or at the head of the tides of the sea. Hundreds of miles, nay, thousands of miles, beyond the point where the tides of the ocean are felt, deep waters spread out, and capacious harbors open themselves to the reception of a vast and increasing navigation.

To be sure, Sir, this is a work of internal improvement; but it is not on that account either the less constitutional or the less important. Sir, I have taken a part in this great struggle for internal improvement from the beginning, and I shall hold out to the end. Whoever may follow, or whoever may fly, I shall go straightforward for all those constitutional powers, and for all that liberal policy, which I have heretofore supported.

I remember, Sir, and, indeed, a very short memory might retain the recollection, when the first appropriations for harbors on the great lakes were carried through this body, not without the utmost difficulty, and against the most determined opposition. I remember when Lake Ontario, Lake Erie, and Lake Michigan were likely to be condemned to a continuance in the state in which nature and the Indian tribes had left them, with no proof upon their shores of the policy of a civilized state, no harbors for the shelter of a hundred vessels, no light-house even to point out to the inland navigator the dangers of his course. I remember even when the harbor of Buffalo was looked upon

either as unimportant in itself, or, if not unimportant, yet as shut out from the care and the aid of Congress by a constitutional interdiction of works of internal improvement. But, Sir, in this case, as in others, the doctrine of internal improvement has established itself by its own necessity, its own obvious and confessed utility, and the benefits which it has already so widely conferred. So it will be, I have no doubt, in the case before us. We shall wonder hereafter who could doubt the propriety of setting free the navigation of the Ohio, and shall wonder that it was delayed even so long.

Mr. President, on the question of constitutional power, I entertain not a particle of doubt. How is it, let me ask, that we appropriate money for harbors, piers, and breakwaters on the sea-coast? Where do we find power for this? Certainly in no part of the Constitution in which we cannot find equal power to pass this bill. The same clause covers such appropriations, inland as well as on the sea-coast, or else it covers neither. We have foreign commerce, and we have internal commerce; and the power, and the duty also, of regulating, protecting, aiding, and fostering both, is given in the same words. For one, therefore, Sir, I look to the magnitude of the object, and not to its locality. I ask not whether it be east or west of the mountains. There are no Alleghanies in my politics.

I care not whether it be an improvement on the shore of the sea, or on the shore of one of those mighty rivers, so much like a sea, which flow through our vast interior. It is enough for me to know that the object is a good one, an important one, within the scope of our powers, and called for by the fair claims of our commerce. So that it be in the Union, so that it be within the twenty-four States, or the twenty-six States, it cannot be too remote for me. This feeling, Sir, so natural, as I think, to true patriotism, is the dictate also of enlightened self-interest. Were I to look only to the benefits of my own immediate constituents, I should still support this measure. Is not *our* commerce floating on these Western rivers? Are not *our* manufactures ascending them all, by day and night, by the power of steam, which is incessantly impelling a thousand engines, and forcing upwards, against their currents, hundreds of thousands of tons of freight? If these cargoes be lost, if they be injured, if their progress be delayed, if the expense of their transportation be increased, who

does not see that all interested in them become sufferers? Who does not see that every producer, every manufacturer, every trader, every laborer, has an interest in these improvements? Surely, Sir, this is one of the cases in which the interest of the whole is the interest of each. Every man has his dividend out of this augmented public advantage. But if it were not so, if the effect were more local, if the work were useful to the Western States alone, or useful mainly to Kentucky and Indiana alone, still I should think it a case fairly within our power, and important enough to demand our attention.

But, Mr. President, I felt the more pain at the result of the last vote of the Senate on account of those Western gentlemen who are so much interested in this measure, and who have uniformly supported appropriations for other parts of the country, which, though just and proper, are, as it seems to me, no more just and proper than this.

These friends have stood by us. They have uniformly been found at our side, in the contest about internal improvement. They have upheld that policy, and have gone with us through good report and evil report. And I now tell them that I shall stand by them. I shall be found where they look for me. I have asked their votes, once and again, for objects important to the Atlantic States. They have liberally given those votes. They have acted like enlightened and wise statesmen. I have duly estimated the high justice and liberality of their conduct. And having now an object interesting to them and to their constituents, a just object and a great object, they have a right to find me at their side, acting with them, acting according to my own principles, and proving my own consistency. And so they shall find me; and so they do find me. On this occasion I am with them; I am one of them. I am as Western a man, on this bill, as he among them who is most Western. This chair must change its occupant, another voice will address the Senate from this seat, before an object of this nature, so important, so constitutional, so expedient, so highly desirable to a great portion of the country, and so useful to the whole, shall fail here, for the want, either of a decisive vote in its support, or of an earnest recommendation of it to the support of others.

DISTRIBUTION OF THE SURPLUS REVENUE.*

MR. PRESIDENT, — I have no desire to make myself responsible, in any special manner, for what may be done or omitted, on this subject. It is surrounded with difficulties, some of them, as I think, unnecessarily created; and as these have been produced by measures in which I did not concur, it naturally belongs to others, who did concur in those measures, and who now possess the power, to apply the remedy according to their judgments, and on their own responsibility. But I incline, nevertheless, to express my opinions on a subject of such very high interest, and to let them have what weight they are entitled to, if it may be supposed that they are entitled to any weight at all.

On one point, I presume, we are all agreed, and that is, that the subject is of great importance. It affects the finances of the country, the security of the public money, and the state of the currency; and it affects also the practical and actual distribution of power among the several branches of the government.

The bill comprises provisions for two objects: —

First, regulations for the custody of the public money, between the time of its collection and the time of its disbursement; and, as naturally connected with this, it concerns, or must very materially affect, the currency of the country, the exchanges, and the usual operations of credit in the commercial world.

* A Speech delivered in the Senate of the United States, on introducing the Proposition for the Distribution of the Surplus Revenue, on the 31st of May, 1836.

The second direct object of the bill is a reduction, positive or contingent, of the amount of money in the treasury.

It seems probable, Sir, that the bill, so far as it respects the first of these objects, may be so modified as to receive the approbation of a majority of the Senate. A committee acting in a spirit of conciliation, and with an honest desire to avoid the points of former difference, might, I think, agree on the regulations to be prescribed to the deposit banks. The sentiments which have been advanced in the course of the discussion do not appear to be irreconcilable. In the present state of things, I see no way but to employ State banks as depositaries of the public money; and I have a sincere desire to subject them to such regulations, and such only, as shall make them, in the highest practicable degree, safe to the government and useful to the country.

To this end, I am of opinion that the first step is to increase their numbers. At present, their number, especially in the large cities, is too small. They have too large sums in deposit, in proportion to their capital and their legal limits of discount. By this means the public money is locked up. It is hoarded. It is withdrawn, to a considerable extent, from the general mass of commercial means, and is suffered to accumulate, with no possible benefit to government, and with great inconvenience and injury to the general business of the country. On this point there seems little diversity of opinion. All appear to agree that the number of deposit banks should be so far increased, that each may regard that portion of the public treasure which it may receive as an increase of its effective deposits, to be used, like other moneys in deposit, as a basis of discount, to a just and proper extent.

I regard this modification of the present system as indispensable.

I think, too, that, for the use of these deposits, the banks should pay a moderate interest. They can well afford it. The best banks in the States will be ready, I do not doubt, to receive the deposits, on that condition among others. What the rate of interest should be depends very much on what we may do with the surplus revenue. If we leave that surplus undistributed, the banks ought to pay a large interest. If we provide for distributing the surplus, thus leaving but a small amount in

the banks, and making it their duty, at the same time, to transfer the public funds from place to place when requested, without charge, the rate of interest should of course be less.

I agree, also, to what has been suggested respecting the authority to change those banks. They ought not to be changed but for plain and specific cause, set down and provided for in the law itself. Any restriction less than this will place a discretion in the hands of the executive, which will be very capable of being abused.

Nor should the Secretary be at liberty to order funds from one bank to another, for any other reason than the exigencies of the public service. He should not be at liberty to use the public treasures for the purpose of upholding the credit, or increasing the means, of any State institution.

The bill proposes that all the deposit banks shall be bound to keep, at all times, an amount of specie in their vaults bearing a certain proportion to their debts and liabilities. I approve of this, not so much from any belief that the solidity of the banks can be secured by any such provisions, as because a regulation of this kind may tend, in some measure, to retain a certain quantity of specie in the country, and by that means to secure, in some small degree, the general circulation against violent shocks. But I do not attach great importance to this.

In my opinion, Mr. President, if the bill pass with these modifications, a considerable benefit will be conferred on the community. Confidence will be, in some measure at least, restored; the banks will possess the power of useful action, and, the distressing uncertainty which now hangs over every thing being dispelled, the commercial community will find its way out of its present embarrassment.

Still, Sir, I am bound to say that the present system, in my opinion, can never be perfect. It can never be the best system. It can never be a safe regulator of the currency of the country, nor furnish solid security against derangement. It can never give to the mercantile world the cheapest, safest, and best means of facilitating domestic exchanges. The State banks were not made for these general purposes; they are not fitted for them; they have not the unity and comprehensiveness of plan and of operation which the successful accomplishment of such purposes requires. They are subject to various limitations by their char-

ters, and it may even be doubtful, in some cases, whether they can legally bind themselves in such stipulations and contracts as we propose to submit to them. They were established for local, not for general objects. They did not expect to receive government deposits; and it might possibly be thought important to their stockholders and customers to be informed whether, in case of failure or insolvency, the *priority* of the United States would prevail, as in other cases, to the postponement of all other debts and claims. It is certainly my opinion, Sir, that we are running great hazards with the currency of the country. I see no well-assured reliance for its safety in this system of deposit banks, regulated as well as they may be. Nevertheless, regulation is necessary, nay, it is indispensable; and some present benefit at least would arise, I am persuaded, from the passage of a proper law.

I come now, Sir, to the other important object of this bill, *the reduction of the amount of money* in the treasury.

And here the first question is, whether there will be any surplus revenue. Will there be any thing to divide at the end of this year? On this point opinions are not agreed; but I think there will be a surplus, and a large surplus. I do not see any probability, either of such a falling off of income, on the one hand, or of such an increase of expenditure on the other, as shall leave the treasury exhausted at the end of this year. I speak of this year only, because the measure which I shall propose will be limited to the end of this year. My plan is to provide for the surplus which may be on hand at the end of this year, and to stop there. As to the probable state of the treasury at that time, I agree that it is matter of opinion and estimate. But we know what sum is on hand now, we are drawing near the close of the session, when appropriations will cease, and the year itself is already half expired. It would seem, then, that we ought to be able to judge of the state of the treasury six months hence, without risk of great and wide mistake. I proceed on the following general estimate and calculation: —

Amount of money in the treasury, Jan. 1, 1836,	$ 25,000,000
Deduct unexpended balances of appropriations,	8,000,000
	$ 17,000,000

Amount forward, ...		$17,000,000
Revenue of the first quarter of 1836, . . .		11,000,000
Estimate for the last three quarters of 1836, .		25,000,000
Stock in late Bank of the United States, including premium, ...		8,000,000
		$61,000,000
Appropriations in 1836, estimated at	$35,000,000	
Deduct what will remain as unexpended balance at the end of the year, ...	14,000,000	
		21,000,000
		$40,000,000

This estimate, Sir, does not rest solely on my own judgment. I find others, acquainted with the subject, and competent to judge, coming to conclusions not far different from my own. It is true, this rests in opinion. It cannot be mathematically proved that we shall have a surplus in the treasury at the end of the year; but the practical question is, whether that result is not so highly probable that it is our duty to make some provision for it, and to make that provision now. I propose only to divide the surplus. If it shall happen, after all, that there shall be no surplus, then the measure will have done no harm. But if the surplus shall not be forty millions, but only thirty-five, thirty, twenty-five, or even twenty, still, if it be now probable that it will reach even the lowest of these sums, is it not our duty to provide for it?

This is a contingent measure, not a positive one. It is intended to apply to a case very likely, in my judgment, to arise; indeed, I may say, a case which in all probability will arise; but if it should not, then the proposed measure will have no operation.

I have already observed, that, in my opinion, the measure should be limited to one single division, one distribution of the surplus money in the treasury. In that respect, my proposition differs from the bill of the honorable member from Carolina, and it differs, too, from the amendment proposed by the member from New York. I think it safest to treat the present state of things as extraordinary, as being the result of accidental causes,

or causes the recurrence of which hereafter we cannot calculate upon with certainty.

There would be insuperable objections, in my opinion, to a settled practice of distributing revenue among the States. It would be a strange operation of things, and its effects on our system of government might well be feared. I cannot reconcile myself to the spectacle of the States receiving their revenues, their means even of supporting their own governments, from the treasury of the United States. If, indeed, the land bill could pass, and we could act on the policy, which I think the true policy, of regarding the public lands as a fund belonging to the people of all the States, I should cheerfully concur in that policy, and be willing to make an annual distribution of the proceeds of the lands, for some years at least. But if we cannot separate the proceeds of the lands from other revenue, if all must go into the treasury together, and there remain together, then I have no hesitation in declaring now, that the income from customs *must be reduced.* It must be reduced, even at the hazard of injury to some branches of manufacturing industry; because this, in my opinion, would be a less evil than that extraordinary and dangerous state of things, in which the United States should be found laying and collecting taxes, for the purpose of distributing them, when collected, among the States of the Union.

I do not think it difficult to account for the present overflowing condition of the treasury. The treasury enjoys two sources of income, the custom-house and the public lands. The income from the customs has been large, because the commerce of the country has been greatly extended, and its prosperity has been remarkable. The exports of the country have continued to increase. While the cotton crop has grown larger and larger from year to year, the price of cotton has still kept up. Notwithstanding all the apprehensions entertained by prudent and sagacious men to the contrary, the world has not become overstocked with this article. The increase of consumption seems to keep pace with the increase of supply. The consequence is, a vast and increasing export by us, and an import corresponding with this export, and with the amount of earnings in the carrying trade; since the general rule undoubtedly is, taking a number of years together, that the amount of imports and the earnings of freights

are about equal to the amount of exports. The cotton-fields of the South most unquestionably form a great part of the basis of our commerce, and the earnings of our navigation another.

The honorable member from South Carolina has referred to the tariff act of 1828 as the true cause of the swollen state of the treasury. I agree that there were many things unnecessarily inserted in the act of 1828. But we know they were not put there by the friends of the act. That act is a remarkable instance, I hope never to be repeated, of unnatural, violent, angry legislation. Those who introduced it designed, originally, nothing more than to meet the new condition of things which had been brought about by the altered policy of Great Britain in relation to taxes on wool. A bill with the same end in view had passed the House of Representatives in 1827, but was lost in the Senate. The act of 1828, however, objectionable though it certainly was in many respects, has not been, in my opinion, the chief cause of the over-product of the customs. I think the act of 1832, confirmed by the act of 1833, commonly called the Compromise Act, has had much more to do in producing that result. Up to the time of the passing of the act of 1832, the *minimum principle* had been preserved in laying duties on certain manufactures, especially woollen cloths. This ill-understood and much-reviled principle appears to me, nevertheless, and always has appeared to me, to be a just, proper, effectual, and strictly philosophical mode of laying protective duties. It is exactly conformable, as I think, to the soundest and most accurate principles of political economy. It is, in the most rigid sense, what all such enactments, so far as practicable, should be; that is to say, a mode of laying *specific duty*. It lays the impost exactly where it will do good, and leaves the rest free. It is an intelligent, discerning, discriminating principle; not a blind, headlong, generalizing, uncalculating operation. Simplicity, undoubtedly, is a great beauty in acts of legislation, as well as in the works of art; but in both it must be a simplicity resulting from congruity of parts and adaptation to the end designed; not a rude generalization, which either leaves the particular object unaccomplished, or, in accomplishing it, accomplishes a dozen others also, which were not desired. It is a simplicity which is wrought out by knowledge and skill; not the rough product of an undistinguishing, sweeping general principle.

Let us suppose that the gradations in woollen cloths be represented by a line. At one end of this line are those of the highest price, and let the scale descend to the other end, where, of course, will be those of the lowest price. Now with the two ends of this line our manufacturers have not much to do; that is to say, they have not much to do with the production of the very highest, or the very lowest, of these articles. Generally speaking, they work in the intermediate space. It was along this space, along this part of the line of work, that the *minimum* principle, as it has been usually called, operated. It struck just where the great object of protection required it to strike, and it struck nowhere else. All the rest it left free. It wasted no power. It accomplished its object by the least possible expenditure of means. Its aim was levelled at a distinct and well-discerned object, and its aim was exact, and the object was reached.

But the *minimum* had become the subject of obloquy and reproach. It was railed at, even, in good set terms, by some who professed to be, and who doubtless were, friends of the protective policy. It was declared to be a deception. It was said that it cheated the people, inasmuch as under its operation they did not see what amount of taxes they really paid. For one, I did not admit the fact, nor yield to the argument. I had no doubt the people knew what taxes they paid under the operation of the laws, as well as we who passed the laws; and whether they stopped to make precise calculations or not, if they found the tax not oppressive, and the effect of the law decidedly salutary, I did not believe they would complain of it, unless it was made a part of some other controversy. The *minimum* principle, however, in its application to broadcloths, was overthrown by the law of 1832, and that law, as it came from the House of Representatives, and as it finally passed, substituted a general and universal *ad valorem* duty of fifty per cent. An effort was made in the Senate to resist this general *ad valorem* system, and to hold on to the specific duty. But it did not prevail. The Senate was about equally divided. The casting or turning vote was held by a gentleman for whom I have always entertained a very high regard, a member from Maryland, not now in the Senate. After the discussion, he admitted himself *almost* satisfied that the law, in this particular, ought not to be altered; but his impression against the *minimum*, nevertheless, finally prevailed, and

he voted for the new mode, that is to say, the general *ad valorem* mode of laying the duty; and to render this effectual, he himself proposed to carry that duty as high as sixty per cent. The Senate fixed it, indeed, at fifty-seven *per cent.;* but the House non-concurred, and the law finally passed, as all know, establishing an *ad valorem* duty of fifty per cent. on woollen cloths, and some other articles.

Now, Mr. President, when we recollect that the duties on woollen fabrics, of all kinds, bring into the treasury four, or five, or six millions a year, every man acquainted with our manufactures must see at once that a portion of this vast sum is perfectly useless as a protective duty; because it is imposed on fabrics with which our own manufacturers maintain no competition, and in regard to which, therefore, they ask no protection. I have instituted sundry inquiries for the purpose of learning, and of showing, what is the amount of duties collected annually on woollens, which have no distinct bearing, as protective duties, on any of the products of our manufactures. At present I will only say, but will say that with great confidence, that, of the surplus money now in the treasury, several millions are the proceeds of *ad valorem* duties which have conferred no perceptible benefit whatever on our manufacturing establishments. It is therefore, Sir, that I regard the law of 1832, and not the law of 1828, as the great error in our legislation. This law of 1832 was confirmed by the act of 1833, and is, of course, in actual operation at the present moment, except so far as it has been affected by the gradual reduction provided for by the last-mentioned act. I wish not to discuss the act of 1833. I do not propose, at present, to disturb its operation; but having alluded to it, I take the occasion of saying, that I have not the least idea that that act can remain as the settled system of this country. When the honorable member from Kentucky* introduced it, he called it a measure of conciliation, and expressed the hope that, if the manufacturing interests should be found to suffer under it, it might be modified by general consent. Although never concurring in the act, I entertain the same hope. I pray most fervently that former strifes and controversies on the tariff question may never be revived; but

* Mr. Clay.

at the same time it is my opinion that the principles established by the law of 1833 can never form the commercial system of this country.

But, Mr. President, the most striking increase in the public revenue is in that branch of it which is derived from the sales of the public lands. How happens it that the proceeds from this quarter have sprung up, thus suddenly, to such a height? The Secretary's estimate of the proceeds of the sales of the public lands for this year was only four millions. The actual sales are likely to be twenty. What has occasioned this great and unexpected augmentation?

Sir, we are to remember that the growth and prosperity of the country generally are remarkable, and that, as these increase, the tide both of people and property which flows westward increases also. The reflow of this property is into the treasury through the land offices.

The well-sustained demand for cotton has, of course, augmented the demand for cotton lands; and we all know that good lands for the production of that crop are sought for with great eagerness. We are to include, too, among the causes tending to produce heavy purchases, the great expansion of the paper circulation, and the amount of foreign capital that has found its way, through one channel or another, into the country, and is giving an additional stimulus and additional facility to enterprises, both public and private. Many of the States have contracted large debts, for purposes of improvement, and their stocks have gone abroad. I suppose there may be fifty millions of State securities now owned in Europe. Foreign capital, also, has been introduced to a great extent of late, as the basis of commercial enterprise, a thing ordinarily to be expected, when we look to the low rates of interest abroad, and the great demand for money at home. It would be hazardous to estimate proportions and amounts on such a subject; but it is certain that a large amount of property now afloat, in ships and goods, owned by Americans, and sailing and transported on American account, is put into commercial operation by means of foreign capital actually advanced, or acting though the agency of credit. This introduction of foreign capital, in all its various forms, has doubtless had some effect in extending our paper circulation, and in raising prices; and certainly it has had a direct effect upon the ability to make investments in the public lands.

And, Sir, closely connected with these causes is another, which I should consider, after all, the main cause; that is, the low price of land, compared with other descriptions of property. In every thing else prices have run up; but here price is chained down by the statute. Goods, products of all kinds, and indeed all other lands, may rise, and many of them have risen, some twenty-five, and some forty or fifty per cent.; but government lands remain at a dollar and twenty-five cents an acre; and vast portions of this land are equal, in natural fertility, to any part of the globe. There is nothing, on either continent, to surpass their quality. The government land, therefore, at the present prices, and at the present moment, is the cheapest safe object of investment. The sagacity of capital has found this out, and it grasps the opportunity. Purchase, it is true, has gone ahead of emigration; but emigration follows it, in near pursuit, and spreads its thousands and its tens of thousands close on the heels of the surveyor and the land-hunter. When I traversed a part of the Western States, three years ago, I could not but ask myself, in the midst of the vast forests around me, Where are the people to come from who are to begin cultivation here, and to checker this wilderness with fields of wheat? But when, returning on the Cumberland Road, or while passing along other great channels of communication, I encountered the masses of population moving westward, I was tempted to ask myself, on the other hand, a far different question, and that was, Where in the world will all these people find room to settle?

Nor are we to overlook, in this survey of the causes of the vast increase in the sale of lands, the effects, almost magical, of that great and beneficent agent of prosperity, wealth, and power, INTERNAL IMPROVEMENT. This has brought the West to the Atlantic, and carried the Atlantic to the West. Ohio, Indiana, Illinois, Michigan, and Wisconsin are no longer places remote from us. Railroads and canals have brought the settlers of these regions so near to us, that we almost see the smoke of their cabins and hear the stroke of their axes. From Maine to the Upper Mississippi is already a beaten track, with one's acquaintances everywhere along the road, and that road even not a long one, if we measure it by the time required to pass over it.

Mr. President, if I am asked how long these causes, or any of

them, will continue to act with this effective energy, I readily answer that I cannot foresee. Nor can I foresee other events, which may affect our revenue in years to come. And it is for this reason precisely, that what I propose is limited to a single year. All the uncertainties and contingencies which naturally belong to human affairs hang over us. I know not what expenditures may be called for next year. I know not what may be necessary to satisfy the all-absorbing demand of Indian wars and Indian treaties. I know not what events, at home or abroad, may shake our commercial security. I know not what frosts and blights may do against the cotton crops. I know not what may happen to our currency. I cannot tell what calls for the use of capital in other objects may affect the purchase of public lands; for I am persuaded that, hereafter, our income from that source is likely to be much more fluctuating than heretofore, as depending less on the actual amount of emigration, and more on the occasional plenty or scarcity of money. Emigration must hereafter supply its wants, much more than formerly, out of lands already separated from the public domain.

Under these circumstances, it appears to me to be prudent to limit the proposed division to a single operation. Let us relieve the treasury for once; and then let us pause and contemplate our condition. As to what may then be expedient, events will enlighten us. We shall be able to judge more wisely by the result of our experiments, and the future will be more visible as it approaches nearer.

It will be observed, Sir, that I give full time to the deposit banks to prepare themselves to pay over these funds. Time for this purpose is indispensable. We might do harm rather than good, if we were to require any sudden operation of that kind. Give the banks time; let them know what they have to do; let the community see into what channels the surplus funds are to flow, and when they are to begin to flow; and men of business will then be able to see what is before them.

I have the fullest confidence that, if we now adopt this measure, it will immediately relieve the country. It will remove that severe and almost unparalleled pressure for money which is now distressing and breaking down the industry, the enterprise, and even the courage, of the commercial community. I assure you,

Sir, this present pressure is not known, or felt, or believed here, in any thing like its true extent. If we give no relief, I know not what may happen, even in this day of high prosperity. I beseech those who have the power not to let the opportunity pass, but to improve it, and thereby to revive the hopes and reassure the confidence of the country. Having expressed these sentiments, and brought forward this specific proposition for one division among the States of the surplus funds, I should now move to commit the whole subject, either to a select committee or the Committee on Finance, were it not that, looking to the present composition of the Senate, I am not desirous of taking a lead in this measure. The responsibility naturally rests with those who have the power of majorities, and who may expect the concurrence of other branches. Meantime, I cheerfully give myself to any labor which the occasion requires, and I express my own deep and earnest conviction of the propriety and expediency of the measures which I have endeavored to explain and to support.

Mr. W. then proposed the following by way of amendment to the "Bill to regulate the Deposits of the Public Money," as an additional section: —

SEC. —. *And be it further enacted*, That the money which shall be in the treasury of the United States on the first day of January, eighteen hundred and thirty seven, reserving —— millions, shall be divided among the several States, in proportion to their respective amounts of population, as ascertained by the last census, and according to the provision of the second section of the first article of the Constitution; and the Secretary of the Treasury shall pay the same to such persons as the several States may authorize to receive it, in the following proportions, and at the following times; viz. one half on the first day of April, eighteen hundred and thirty-seven; one quarter part on the first day of July, eighteen hundred and thirty-seven; and the remaining quarter on the first day of October, eighteen hundred and thirty-seven; and all States which shall receive their several proportions, according to the provisions of this act, shall be taken and understood thereby to pledge the public faith of such States to repay the same, or any part thereof, to the United States, whenever Congress shall require the same to be repaid, by any act or acts which shall require such payment ratably, and in equal proportion, from all the States which have received the same.

THE SPECIE CIRCULAR.*

THE Senate having again proceeded to the order of the day, which was the consideration of the following resolutions, heretofore moved by Mr. Ewing, of Ohio:—

"*Resolved by the Senate and House of Representatives, &c.*, That the treasury order of the 11th day of July, A. D. 1836, designating the funds which should be receivable in payment for public lands, be, and the same is hereby, rescinded;

"*Resolved, also*, That it shall not be lawful for the Secretary of the Treasury to delegate to any person, or to any corporation, the power of directing what funds shall be receivable for customs, or for the public lands; nor shall he make any discrimination in the funds so receivable, between different individuals, or between the different branches of the public revenue";

Mr. Webster addressed the Senate as follows:—

MR. PRESIDENT,—The power of disposing of this important subject is in the hands of gentlemen, both here and elsewhere, who are not likely to be influenced by any opinions of mine. I have no motive, therefore, for addressing the Senate, but to discharge a public duty, and to fulfil the expectations of those who look to me for opposition, whether availing or unavailing, to whatever I believe to be illegal or injurious to the public interests. In both these respects, the treasury order of the 11th of July appears to me objectionable. I think it unwarranted by law, and I think it also practically prejudicial. I think it has contributed not a little to the pecuniary difficulties under which the whole country has been, and still is, laboring; and that its

* A Speech delivered in the Senate of the United States, on the 21st of December, 1836, on the subject of the Specie Circular.

direct effect on one particular part of the country is still more decidedly and severely unfavorable.

The treasury order, or treasury circular, of the 11th of July last, is addressed by the Secretary to the receivers of public money, and to the deposit banks. It instructs these receivers and these banks, "after the 15th day of August then next, to receive in payment for the public lands nothing except what is directed by existing laws, viz. gold and silver, and, in the proper cases, Virginia land scrip; provided, that till the 15th of December then next, the same indulgence heretofore extended, as to the kind of money received, may be continued for any quantity of land not exceeding three hundred and twenty acres, to each purchaser who is an actual settler or *bonâ fide* resident in the State where the sales are made."

The exception in favor of Virginia scrip is founded on a particular act of Congress, and makes no part of the general question. It is not necessary, therefore, to refer further to that exception. The substance of the general instruction is, that *nothing but gold and silver shall be received in payment for public lands;* provided, however, that actual settlers and *bonâ fide* residents in the States where the sales are made may purchase in quantities not exceeding three hundred and twenty acres each, and be allowed to pay as heretofore. But this provision was limited to the 15th day of December, which has now passed; so that, by virtue of this order, gold and silver are now required of *all* purchasers, and for all quantities.

I am very glad that a resolution to rescind this order has been thus early introduced; and I am glad, too, since the resolution is to be opposed, that opposition comes early, in a bold, unequivocal, and decided form. The order, it seems, is to be defended as being both legal and useful. Let its defence then be made.

The honorable member from Missouri* objects even to giving the resolution to rescind a second reading. He avails himself of his right, though it be contrary to general practice, to arrest the progress of the measure at its first stage. This, at least, is open, bold, and manly warfare.

The honorable member, in his elaborate speech, founds his

* Mr. Benton.

causes the recurrence of which hereafter we cannot calcu-
te upon with certainty.

There would be insuperable objections, in my opinion, to a
ttled practice of distributing revenue among the States. It
ould be a strange operation of things, and its effects on our
stem of government might well be feared. I cannot reconcile
yself to the spectacle of the States receiving their revenues,
eir means even of supporting their own governments, from
e treasury of the United States. If, indeed, the land bill
uld pass, and we could act on the policy, which I think the
ıe policy, of regarding the public lands as a fund belonging
the people of all the States, I should cheerfully concur in that
licy, and be willing to make an annual distribution of the
oceeds of the lands, for some years at least. But if we can-
t separate the proceeds of the lands from other revenue, if all
ıst go into the treasury together, and there remain together,
n I have no hesitation in declaring now, that the income
m customs *must be reduced.* It must be reduced, even at the
zard of injury to some branches of manufacturing industry;
cause this, in my opinion, would be a less evil than that extra-
linary and dangerous state of things, in which the United
ates should be found laying and collecting taxes, for the pur-
se of distributing them, when collected, among the States of
e Union.

I do not think it difficult to account for the present overflow-
g condition of the treasury. The treasury enjoys two sources
income, the custom-house and the public lands. The income
m the customs has been large, because the commerce of the
untry has been greatly extended, and its prosperity has been re-
ırkable. The exports of the country have continued to increase.
hile the cotton crop has grown larger and larger from year
year, the price of cotton has still kept up. Notwithstand-
g all the apprehensions entertained by prudent and sagacious
n to the contrary, the world has not become overstocked with
is article. The increase of consumption seems to keep pace
ith the i of supply. The consequence is, a vast and
creasin an import corresponding with this
port, of earnings in the carrying trade;
th lly is, taking a number of years
earnings of freights

Amount forward, ...		$17,000,000
Revenue of the first quarter of 1836, . . .		11,000,000
Estimate for the last three quarters of 1836, .		25,000,000
Stock in late Bank of the United States, including premium, ...		8,000,000
		$61,000,000
Appropriations in 1836, estimated at	$35,000,000	
Deduct what will remain as unexpended balance at the end of the year, ...	14,000,000	
		21,000,000
		$40,000,000

This estimate, Sir, does not rest solely on my own judgment. I find others, acquainted with the subject, and competent to judge, coming to conclusions not far different from my own. It is true, this rests in opinion. It cannot be mathematically proved that we shall have a surplus in the treasury at the end of the year; but the practical question is, whether that result is not so highly probable that it is our duty to make some provision for it, and to make that provision now. I propose only to divide the surplus. If it shall happen, after all, that there shall be no surplus, then the measure will have done no harm. But if the surplus shall not be forty millions, but only thirty-five, thirty, twenty-five, or even twenty, still, if it be now probable that it will reach even the lowest of these sums, is it not our duty to provide for it?

This is a contingent measure, not a positive one. It is intended to apply to a case very likely, in my judgment, to arise; indeed, I may say, a case which in all probability will arise; but if it should not, then the proposed measure will have no operation.

I have already observed, that, in my opinion, the measure should be limited to one single division, one distribution of the surplus money in the treasury. In that respect, my proposition differs from the bill of the honorable member from Carolina, and it differs, too, from the amendment proposed by the member from New York. I think it safest to treat the present state of things as extraordinary, as being the result of accidental causes,

causes the recurrence of which hereafter we cannot calcu-
te upon with certainty.

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circulate as money. And it may be proper enough for those who maintain that nothing should so circulate but gold and silver, to denominate such bank-notes "paper money," since they regard them but as paper intruders into channels which should flow only with gold and silver. If this language of the order is authentic, and is to be maintained, and all bank-notes are to be regarded and stigmatized as mere "paper money," the sooner the country knows it the better.

The member from Missouri charges those who wish to rescind the treasury order with two objects; first, to degrade and disgrace the President, and next, to overthrow the constitutional currency of the country.

For my own part, Sir, I seek to degrade or disgrace nobody. Holding the order illegal and unwise, I shall certainly vote to rescind it; and in the discharge of this duty I hope I am not expected to shrink back, lest I should do something which might call in question the wisdom of the Secretary, or even of the President. And I hope that so much of independence as may be manifested by free discussion and an honest vote is not to cause denunciation from any quarter. If it should, let it come.

As to an attempt to overthrow the constitutional currency of the country, if I were now to enter into such a design, I should be beginning at rather a late day to wage war against the efforts of my whole political life. From my very first concern with public affairs, I have looked at the public currency as a matter of the highest interest, and hope I have given sufficient proofs of a disposition at all times to maintain it sound and secure, against all attacks and all dangers. When I first entered the other house of Congress the currency was exceedingly deranged. Most of the banks had stopped payment, and the circulating medium had then become indeed paper money. So soon as a state of peace enabled us, I took part with others in an effort to restore the currency to a better state; and success followed that effort.

But what is meant by the "constitutional currency," about which so much is said? What species or forms of currency does the Constitution allow, and what does it forbid? It is plain enough that this depends on what we understand by *currency*. Currency, in a large, and perhaps in a just sense, includes not only gold and silver and bank-notes, but bills of ex-

change also. It may include all that adjusts exchanges and settles balances in the operations of trade and business. But if we understand by currency the *legal money* of the country, and that which constitutes a lawful tender for debts, and is the statute measure of value, then, undoubtedly, nothing is included but gold and silver. Most unquestionably there is no legal tender, and there can be no legal tender, in this country, under the authority of this government or any other, but gold and silver, either the coinage of our own mints, or foreign coins, at rates regulated by Congress. This is a constitutional principle, perfectly plain, and of the very highest importance. The States are expressly prohibited from making any thing but gold and silver a tender in payment of debts; and although no such express prohibition is applied to Congress, yet, as Congress has no power granted to it, in this respect, but to coin money and to regulate the value of foreign coins, it clearly has no power to substitute paper, or any thing else, for coin, as a tender in payment of debts and in discharge of contracts. Congress has exercised this power, fully, in both its branches. It has coined money, and still coins it; it has regulated the value of foreign coins, and still regulates their value. The legal tender, therefore, the constitutional standard of value, is established, and cannot be overthrown. To overthrow it, would shake the whole system.

But if the Constitution knows only gold and silver as a legal tender, does it follow that the Constitution cannot tolerate the voluntary circulation of bank-notes, convertible into gold and silver at the will of the holder, as part of the actual money of the country? Is a man not only to be entitled to demand gold and silver for every debt, but is he, or should he be, obliged to demand it in all cases? Is it, or should government make it, unlawful to receive pay in any thing else? Such a notion is too absurd to be seriously treated. The constitutional *tender* is the thing to be preserved, and it ought to be preserved sacredly, under all circumstances. The rest remains for judicious legislation by those who have competent authority.

I have already said, that Congress has never supposed itself authorized to make any thing but coin a tender, in the payment of debts, between individual and individual; but it by no means follows from this that it may not authorize the receipt of any thing but coin in payment of debts due to the United States.

These powers are distinct, and flow from different sources. The power of coinage is a general power; a portion of sovereignty taken from the States and conferred on Congress, for the sake both of uniformity and of greater security. It is to be exercised for the benefit of all the people, by establishing a legal tender and standard of value in all transactions.

But when Congress lays duties and taxes, or disposes of the public lands, it may direct payment to be made in whatever *medium* it pleases. The authority to lay taxes includes the power of deciding how they shall be paid; and the power granted by the Constitution to dispose of the territory belonging to the United States carries with it, of course, the power of fixing, not only the price and the conditions and time of payment, but also the *medium* of payment. Both in respect to duties and taxes, and payments for lands, it has been, accordingly, the constant practice of Congress, in its discretion, to provide for the receipt of sundry things besides gold and silver. As early as 1797, the public stocks of the government were made receivable for lands sold; the six per cents at par, and other descriptions of stock in proportion. This policy had, probably, a double purpose in view, the one to sustain the price of the public stocks, and the other to hasten the sale and settlement of the lands. Other statutes have given the like receivable character to Mississippi stock, and to Virginia land scrip. So treasury-notes were made receivable for duties and taxes; and, indeed, if any such should now be found outstanding, I believe they constitute a lawful mode of payment, at the present moment, whether for duties and taxes, or for lands.

But in regard both to taxes and payments for lands, Congress has not left the subject without complete legal regulation. It has exercised its full power. The statutes have declared what should be received from debtors and from purchasers, and have left no ground whatever for the interference of executive discretion or executive control. So far as I know, there has been no period when this subject was not regulated by express legal provision. When the duty act and the tonnage act were passed, at the first session of the first Congress, an act was passed also, at the same session, containing a section which prescribed the coins in which those duties were to be paid, and fixed their values. From that time to this, the *medium* for the payment of

public debts and dues has been a matter of fixed legal right, and not at all a matter of executive discretion. The Secretary of the Treasury has had no more power over these laws than over other laws. He can no more change the legal mode of paying the duty, than he can change the amount of the duty to be paid. He can no more alter the legal means of paying for lands, than he can alter the price of the lands themselves. It would be strange, indeed, if this were not so. It would be ridiculous to say that we lived under a government of laws, if an executive officer may say in what currency or medium a man shall pay his taxes and debts to government, and may make one rule for one man, and another rule for another. We might as well admit that the Secretary had authority to remit or give in the debt of one, while he enforced payment from the other.

I desire, Sir, even at the expense of some repetition, to fix the attention of the Senate to this proposition; that Congress, having by the Constitution authority to dispose of the public territory, has passed laws for the complete exercise of that power; laws which not only have fixed the price of the public lands, the manner of sales, and the time of payment, but which have fixed also, with equal precision, the *medium*, or kinds of *money*, or other things, which shall be received in payment. It has neglected no part of this important trust; it has delegated no part of it; it has left no ground, not an inch, for executive interposition.

The only question, therefore, is, What *is* the law, or what *was* the law when the Secretary issued his order?

The Secretary regards that which has been uniformly done for twenty years, that is to say, the receiving of payment for the public lands in the bills of specie-paying banks, as against law. He calls it an "indulgence"; and this "indulgence" the order proposes to continue for a limited time, and in favor of a particular class of purchasers. If this were an indulgence, and against law, one might well ask, How has it happened that it should have continued so long, especially through late years, marked by such a spirit of thorough and searching reform? It might be asked, too, If this be illegal, and an indulgence only, why continue it longer, and especially why continue it as to some, and refuse to continue it as to others?

But, Sir, it is time to turn to the statute, and to see what the legal provision is. On the 30th day of April, 1816, a resolution passed both houses of Congress. It was in the common form of a joint resolution, and was approved by the President; and no one doubts, I suppose, that, for the purpose intended by it, it was as authentic and valid as a law in any other form. It provides, that, "from and after the 20th day of February next [1817], no duties, taxes, debts, or sums of money, accruing or becoming payable to the United States, ought to be collected or received otherwise than in the legal currency of the United States, or treasury-notes, or notes of the Bank of the United States, or in notes of banks which are payable and paid on demand in the said legal currency of the United States."

This joint resolution authoritatively fixed the rights of parties paying, and the duties of officers receiving. So far as respects the notes of the Bank of the United States, it was altered by a law of the last session; but in all other particulars it is, as I suppose, in full force at the present moment; and as it expressly authorizes the receipt of such bank-notes as are payable and paid on demand, I cannot understand how the receipt of such notes is a matter of "indulgence." We may as well say, that to be allowed to pay in treasury-notes, or in foreign coins, or, indeed, in our own gold and silver, is an indulgence, since the act places all on the same ground.

The honorable member from Missouri has, indeed, himself furnished a complete answer to the Secretary's idea; that is to say, he defends the order on grounds not only differing from, but totally inconsistent with, those assumed by the Secretary. He does not consider the receipt of bank-notes hitherto, or up to the time of issuing the order, as an indulgence, but as a lawful right while it lasted. How he proves this right to be now terminated, and terminated by force of the order, I shall consider presently. I only say now, that his argument entirely deprives the Secretary of the only ground assigned by him for the treasury order. The Secretary directs the receivers to "receive in payment for the public lands nothing *except what is directed by the existing laws*, viz. gold and silver, and, in the proper cases, Virginia land scrip." Gold and silver, then, and, in the proper cases, Virginia land scrip, are, in the opinion of the Secretary, all that is

directed to be received by the existing laws. The receipt of bank-notes he considers, therefore, but an indulgence, a thing against law, to be tolerated a little longer, in some cases, and then to be finally suppressed.

Apparently not at all satisfied with this view of the Secretary of the ground upon which his own order must stand, the member from Missouri not only abandons it altogether, but sets up another wholly inconsistent with it. He admits the legality of payment in such bank-notes up to the date of the order itself, but insists that the Secretary of the Treasury had a right of selection, and a right of rejection also; and that, although the various modes of payment provided by the resolution of 1816 were all good and lawful, till the Secretary should make some of them otherwise, yet that, by virtue of his power of selection or rejection, he might at any time strike one or more of them out of the list. And this power of selection or rejection he thinks he finds in the resolution of 1816 itself.

I incline to think, Sir, that the Secretary will be as little satisfied with the footing on which his friend, the honorable member from Missouri, thus places his order, as that friend is with the Secretary's own ground. For my part, I think them both just half right; that is to say, both, in my humble judgment, are just so far right as they distrust and disclaim the reasoning of each other. Let me state, Sir, as I understand it, the honorable member's argument. It is, that the law of 1816 gives the Secretary a selection; that it provides four different modes, or *media*, of payments; that the Secretary is to collect the revenue in one, or several, or all of these modes or *media*, at his discretion; that all are in the disjunctive, as I think he expressed it; and that the resolution, or law, is not mandatory or conclusive in favor of any one. According to the honorable member, therefore, if the Secretary had chosen to say that our own eagles and our own dollars should no longer be receivable, whether for customs, taxes, or public lands, he had a clear right to say so, and to stop their reception.

Before a construction of so extraordinary a character be fixed on the law of 1816, something like the appearance of argument, I think, might be expected in its favor. But what is there upon which to found such an implied power in the Secretary of the Treasury? Is there a syllable in the whole law which counte-

nances any such idea for a single moment? There clearly is not. The law was intended to provide, and does provide, in what sorts of money, or other means of payment, those who owe debts to the government shall pay those debts. It enumerates four kinds of money, or other means of payment; and can any thing be plainer than that he who has to pay may have his choice out of all four? All being equally lawful, the choice is with the payer, and not with the receiver. This would seem to be too plain either to be argued or denied. Other laws of the United States have made both gold and silver coins a tender in the payment of private debts. Did any man ever imagine, that in that case the choice between the coins to be tendered was to lie with the party receiving? No one could ever be guilty of such an absurdity. And unless there be something in the law of 1816 itself, which, either expressly or by reasonable inference, confers a similar power on the Secretary of the Treasury in regard to public payments, is there, in the nature of things, any difference between the cases? Now, there is nothing, either in the law of 1816 or any other law, which confers any such power on the Secretary of the Treasury, either directly or indirectly, or which suggests, or intimates, any ground upon which such power might be implied. Indeed, the statement of the argument seems to me enough to confute it. It makes the law of 1816 not a rule, but the dissolution of all rule; not a law, but the abrogation of all existing laws. According to the argument, the Secretary of the Treasury had authority, not only to refuse the receipt of treasury-notes, which had been issued upon the faith of statutes expressly making them receivable for debts and duties, and notes of the Bank of the United States, which were also made receivable by the law creating the bank, but to refuse also foreign coins and the coinage of our own mint; putting thus the legislation of Congress for five-and-twenty years at the unrestrained and absolute discretion of the Secretary of the Treasury. It appears to me quite impossible that any gentleman, on reflection, can undertake to support such a construction.

But the gentleman relies on a supposed practice to maintain his interpretation of the law. What practice? Has any Secretary ever refused to receive the notes of specie-paying banks, either at the custom-house or the land offices, for a single hour?

Never. Has any Secretary presumed to strike foreign coin, or treasury-notes, or our own coin, out of the list of receivables? Such an idea certainly never entered into the head of any Secretary. The gentleman argues that the treasury has made discriminations; but what discriminations? I suppose the whole truth to be simply this; that, admitting at all times the right of the party paying to pay in notes of specie-paying banks, the collectors and receivers have not been held bound to receive notes of distant banks, of which they knew nothing, and therefore could not judge whether their notes came within the law. Those collectors and receivers were bound to receive the bills of specie-paying banks; but as that duty arose from the fact that the notes tendered were the notes of specie-paying banks, that fact, if not notorious or already known to them, must be made known, with reasonable certainty, before the duty to receive them became imperative. I suppose there may have been treasury orders regulating the conduct of collectors and receivers in this particular. Any orders which went further than this would go beyond the law.

The honorable member quotes one of the by-laws of the late Bank of the United States; but what has that to do with the subject? Does the honorable member think that the by-laws of the late bank were *laws* to the people of the United States? The bank was under no obligation to receive any notes on deposit except its own. It might, therefore, make just such an arrangement with the treasury as it saw fit, if it saw fit to make any. But neither the treasury, nor the bank, nor both together, could do away with the letter of an act of Congress; nor did either undertake so to do.

But, Sir, what have been the gentleman's own opinions on this subject heretofore? Has he always been of opinion that the Secretary enjoyed this power of selection, as he now calls it, under the law of 1816? Has he heretofore looked upon the various provisions of that law only as so many movable and shifting parts, to be thrown into gear and out of gear by the mere touch of the Secretary's hand? Certainly, Sir, he has not thought so; certainly he has looked upon that law as fixed, definite, and beyond executive power, as clearly as other laws; as a statute, to be repealed or modified only by another statute. No longer ago than the 23d of last April, the honorable mem-

ber introduced a resolution into the Senate in the following words:—

"*Resolved*, That, from and after the —— day of ——, in the year 1836, nothing but gold and silver coin ought to be received in payment for public lands; and that the Committee on Public Lands be instructed to report a bill accordingly."

And now, Sir, I ask why the honorable member moved here for a bill and a law, if the whole matter was, in his opinion, within the power of the Secretary of the Treasury?

The Senate did not adopt this resolution. A day or two after its introduction, and when some little discussion had been had upon it, a motion to lay it on the table prevailed, hardly opposed, I think, except by the gentleman's own vote. A few weeks after this disposition had been made of his resolution, the session came to a close, and seven days after the close of the session the treasury order made its appearance.

But this is not all. There is higher authority than even that of the honorable member. Looking to the expiration of the charter of the Bank of the United States, the President, in his annual message in December last, said it was incumbent on Congress to discontinue, by law, the receipt of the bills of that bank in payment of the public revenue. Now, as the charter was to expire on the 3d day of March, there was nothing to make its bills receivable after that period except the law of 1816. To strike the provision respecting notes of the bank out of that law, another law was indeed necessary, according to my understanding; but I do not conceive how it should be thought necessary, upon the construction of the honorable member. Both houses being of opinion, however, that the thing could not be done without law, an act was passed for that purpose, and was approved by the President. Here, then, Sir, is the gentleman's own authority, the authority of the President, and the authority of both houses of Congress, for saying that nothing contained in the law of 1816 can be thrust out of it by any other power than the power of a subsequent statute. I am, therefore, of opinion, that the treasury order of the 11th of July is against the plain words and meaning of the law of 1816; against the whole practice of the government under that law; against the honorable gentleman's own opinion, as expressed in his resolution of the 23d of April; and not reconcilable with the neces-

sity which was supposed to exist for the passage of the act of last session.

On this occasion I have heard of no attempt to justify the order on the ground of any other law, or act, but the act of 1816. When the order was published, however, it was accompanied with an exposition, apparently half official, which looked to the land laws as the Secretary's source of power, and which took no notice at all of the law of 1816. The land law referred to was the act of 1820; but it turns out, upon examination, that there is nothing at all in that law to support the order, or give it any countenance whatever. The only clause in it which could be supposed to have the slightest reference to the subject is the proviso in the fourth section. That section provides for the sale of such lands as, having been once sold on credit, should revert or become forfeited to the United States through failure of payment; and the proviso declares, that no such lands shall be again sold on any other terms than those of "cash payment." These words, "cash payment," have been seized upon, as if they had wrought an entire change in the important provisions of the law of 1816, and already established an exclusive specie payment for lands. The idea is too futile for serious refutation. In the first place, the whole section applies only to forfeited lands; but the truth is, the term "cash payment" means only payment down, in contradistinction to credit, which had formerly been allowed; just as the same words in the tariff act of July, 1832, mean payment down, instead of payment secured by bonds, when it says that the duties on certain articles shall be paid in "cash." As to the second section of the land law of 1820, which was set forth with great formality in the exposition to which I have referred, as furnishing authority for the Secretary's order, there is not a word in it having any such tendency; not a syllable which has any application to the matter. That section simply declares, that after the first day of July, in that year, every purchaser of land at public sale shall, on the day of purchase, make a *complete payment therefor;* and the purchaser at private sale shall produce a receipt for the amount of the *purchase money* on any tract, before he shall enter the same at the land office. This is all. It does not say *how* the purchaser shall make *complete payment*, nor in what currency the purchase money shall be received. It is quite evident, therefore, that that section lends the order no support whatever.

The defence of the order, then, stands thus. The Secretary founds it upon the idea that nothing but gold and silver was ever lawfully receivable, and that the receipt of bank-bills has been all along an "*indulgence*" against law. For this opinion he gives no reasons.

The honorable member from Missouri rejects this doctrine. He admits the receipt of bank-notes to have been lawful until made unlawful by the order itself; and insists that the Secretary's power of stopping their further receipt arises *under* the law of 1816, and is an authority derived from it. But then the long and half-official exposition which accompanied the publication of the order has no faith in the law of 1816 as a source of power, but makes a parade of a totally and perfectly inapplicable section out of the land law of 1820. Grounds of defence so totally inconsistent cannot all be sound, but they may be all unsound; and whether they be so or not, is a question which I would willingly leave to the decision of any man of good sense and honest judgment. I take leave of this part of the case for the present. I may pause at least, I hope, until those who defend the order shall be better agreed on what ground to place it.

Mr. President, the subject of the currency is so important, so delicate, and, in my judgment, surrounded at the present moment with so much both of difficulty and of danger, that I am desirous, before making the few observations which I intend, on the existing condition of things and its causes, to preclude all misapprehension, by a general statement of my opinions respecting that subject.

I am certainly of opinion, then, that gold and silver, at rates fixed by Congress, constitute the legal standard of value in this country; and that neither Congress nor any State has authority to establish any other standard, or to displace this. But I am also of opinion, that an exclusive circulation of gold and silver is a thing absolutely impracticable; and if practicable, not at all to be desired; inasmuch as its effect would be to abolish credit, to repress the enterprise and diminish the earnings of the industrious classes, and to produce, faster and sooner than any thing else in this country can produce, a moneyed aristocracy.

I am of opinion that a mixed currency, partly coin and partly bank-notes, the notes not issued in excess, and always converti-

ble into specie at the will of the holder, is, in the present state of society, the best practical currency; always remembering, however, that bills of exchange perform a great part of the duty of currency, and, therefore, that the state of domestic exchange is always a matter of high importance and of great actual influence on commercial business.

I admit that a currency partly composed of bank-notes has always a liability, and often a tendency, to excess; and that it requires the constant care and oversight of government.

I am of opinion, even, that the convertibility of bank-notes into gold and silver, although it be a necessary guard, is not an absolute security against occasional excess of paper issues.

I believe, even, that the confining of discounts to such notes and bills as represent real transactions of purchase and sale, or to real business paper, as it is called, though generally a sufficient check, is not always so; because I believe there is sometimes such a thing as over-trading, or over-production.

What, then, it will be asked, *is* a sufficient check? I can only repeat what I have before said, that it is a subject which requires the constant care, watchfulness, and superintendence of government. But our misfortune is, that we have withdrawn all care and all superintendence from the whole subject. We have surrendered the whole matter to eight-and-twenty States and Territories. With the power of coinage, and the power and duty of regulating commerce, both external and internal, this government has little more control over the mass of money which circulates in the country than a foreign government. Upon the expiration of the charter of the Bank of the United States, new banks were created by the States. Sixty or eighty millions of banking capital have thus been added to the mass, since 1832. All this it was easy to foresee; it was all foreseen, and all foretold. The wonder only is, that the evil has not already become greater than it is; and it would have been greater, and we should have had such an excess as would perhaps have depreciated the currency, had it not been for the extraordinary prosperity of the country. No very great excess, I believe, has as yet in fact happened, or rather no very great excess does now exist. There are sufficient evidences, I think, of this.

In the first place, the amount of specie in the country is far greater than was ever known before, and it is not exported. In

the next place, as all the banks as yet maintain their credit, and all pay specie on demand, the whole circulation is, in effect, equivalent to a specie circulation; and the state of the foreign exchange shows that the value of our money, in the mass, is not depreciated, since it may be transferred without any loss into the currency of other countries. Our money, therefore, is as good as the money of other countries. If it had fallen below the value of money abroad, the rates of exchange would instantly show that fact. There has been, therefore, as yet, or at least there exists at present, no considerable depreciation of money. If, then, it be asked what keeps up the value of money, in this vast and sudden expansion and increase of it, I have already given the answer which appears to me to be the true one. It is kept up by an equally vast and sudden increase in the property of the country, and in the value of that property, intrinsic as well as marketable. None of us, I think, have estimated this increase high enough, and for that reason we have all been looking for an earlier fall in prices. It seems obvious to me, that an augmentation in the value of property, far exceeding all former experience in any country, even our own, has taken place in the United States within the last few years. The public lands may furnish one instance of this rapid increase. It was estimated last session, by my honorable friend from Ohio,* that the demands of actual settlers for lands for settlement were eight millions of acres per annum, on an average of some years. These eight millions, if taken up at government prices at private entry, would cost ten millions of dollars. Now, partly by cultivation, but more by the continued rush of emigration, both from Europe and the Atlantic coast, the value of these ten millions in a very few years springs up to forty millions; that is to say, lands taken up at a dollar and a quarter an acre soon become worth five dollars an acre for actual cultivation, and in intrinsic value. And it is to be remembered that these lands are alienable and salable, with as little of form and ceremony, almost, as if they were goods and chattels. Now, if we make an estimate, not merely on the eight millions of acres required for actual settlement, but on the whole quantity selected and taken up annually, we shall see something of the addition to the

* Mr. Ewing.

whole amount of property which accrues annually from the public lands. A rise has taken place, too, though less striking, in the value of other lands in the country; and property, in goods, merchandise, products, and other forms, is rapidly augmented also, both in quantity and value, by the industry and skill of the people, and the extension and most successful use of machinery.

Another most important element in the general estimate of the progress of wealth in the country is the wonderful annual increase of the cotton crops, and the prices which the article bears. Last year's crop reached, probably, to eighty millions of dollars. Now, most of the cotton produced in the United States is sold once, at least, in the country, and much of it many times. The bills drawn against it when shipped, either for Europe or the Atlantic ports, are usually cashed at the place of drawing, commonly, no doubt, by means of bank-notes, or bank credits.

I put all these cases but as instances showing the increased value of property and amount of business in the country, and accounting therefore for an expansion of the circulation, without supposing great excess; since it is obvious that the circulating money of a country naturally bears a proportion to the whole mass of property, and to the number and amount of business transactions.

But there is another cause of a less favorable character, which may have had its effect already, or, if not, is very likely to have it hereafter, in augmenting the circulation of bank-notes; I mean the obstruction and embarrassment of the domestic exchanges. In a proper and natural state of affairs, the place of currency, or money, is filled to a great extent by bills of exchange; and this continues to be the case so long as the rates of the exchange remain low and steady. Nobody, for example, will send bank-notes or specie from New York to New Orleans, if he can buy a good bill at par, or near par. But when exchange becomes disturbed, when rates rise and fluctuate, bills cease to be able to perform this function, and then bank-notes begin to be sent about from place to place, in quantities, to supply the place of bills of exchange, in payment of debts and balances. All such, and all other, derangements and distractions in the free course of domestic exchanges necessarily produce an unnatural and

considerable increase of the circulation. So far as our circulation has been, or may be, augmented by this cause, so far both the cause and the effect are to be deplored. In my opinion, we have certainly reason to fear this excess hereafter. What is to prevent it? Is it possible that so many State banks, so far apart, so unknown to each other, with no common objects, no common principles of discount, and no general regulation whatever, should act so much in concert, and upon system, as to maintain the currency of the country steady, without either unjust expansion or unnecessary contraction? I believe it is not possible. I believe many of those who insist so much on hard-money circulation believe this also; and that they press their impracticable hard-money notions, from a consciousness that the discontinuance of a national institution has brought the country into a condition in which it is threatened with issues of irredeemable paper.

Our present evil, however, is of a different kind. It is, indeed, somewhat novel and anomalous. With great general prosperity, good crops, generally speaking, an abundance of the precious metals, and a favorable state of foreign exchanges, men of business have yet felt, for some months, an unprecedented scarcity of money. That is the state of things; its cause, in my opinion, is expressed in a few words; *it is the derangement of internal intercourse and internal exchange.* Our difficulty is not exhaustion, but obstruction. Every body has means enough, but nobody can use his means. All the usual channels of commercial dealing are blocked up. The manufacturers of the North cannot obtain from the South the proceeds of the sales of their articles; the South finds money scarce, too, in the midst of its abundant exports.

In a country so extensive and so busy, every merchant's means become more or less dispersed, and exist in various places in the shape of debts. Exchange is the instrument, the wand, by which he reaches forth to these means, wherever they are, and uses them for his immediate and daily purposes. But this instrument is broken. He can no longer touch with it his distant debt, and make that debt present money. He seeks, therefore, for expedients; borrows money, if he can, till times change; pays enormous rates of interest to maintain credit; thinks things, when at the worst, must soon change; looks for reaction,

and sacrifices [illegible] hard earnings of [illegible] cial engagements. [illegible] greedy capital [illegible] honest industry. [illegible] laborious and [illegible] highways of commercial [illegible] more founderous, or are all breaking up. [illegible] useful as the basis of a circulation [illegible] upon the move. Any time [illegible] happened, and many times [illegible] steamboats from New York carrying specie to Boston [illegible] passed in the Sound steamboats from Boston carrying specie to New York. Boating and carting money [illegible] become the order of the day: and there are those [illegible] they hear of specie hauled and transported [illegible] place in masses, flatter themselves [illegible] the country is returning rapidly to a safe and happy specie [illegible]lation!

There may be other minor causes. They are [illegible] merating. The great and immediate origin of [illegible] turbance in the exchange; and, in my opinion, this disturbance has been caused by the agency of the government itself. The fifty millions in the treasury have been agitated by unnecessary transfers. As a large portion of this sum was to be deposited with the States at the beginning of next year, the Secretary seems to have thought it necessary to cut up, divide, and remove assigned portions of it before the time came. It is this idea of *removal* that has wrought the mischief. In consequence of this, money has been taken from places of active commercial business, where it was much needed, and all used, and carried to places where it was not needed, and could not be used.

The agricultural State of Indiana, for example, is full of specie; the highly commercial and manufacturing State of Massachusetts is nearly drained. In the mean time, the money in Indiana *cannot be used.* It is waiting for the new year. The moment the treasury grasp is let loose from it, it will tend again to the great marts of business; that is to say, the restoration of the natural state of things will begin to correct the evil of arbitrary and artificial financial arrangements. The money will go back

to the places where it is wanted. It will seek its level and its place of usefulness. In my opinion, the proper execution of the deposit law did not make it at all necessary for the treasury to order these previous local changes. The law itself is not answerable for the inconvenience which has resulted. When the time came, the States, all of them, would have been very glad to receive the money where it was. They wanted but an order for it. They desired no carting. Can any thing be more preposterous than to transfer specie from New York to Nashville, when to a man in Nashville specie in New York is two per cent. more valuable than if he had it in his own house? There is always a tendency in specie, not actually in the pockets of the people, towards the great marts and places of exchange. Those who want it, want it there. There the great transactions of commerce are performed, and there the means of those transactions naturally exist, simply because there they are required. Now, what reason was there for disturbing the revenue, thus lying where it had been collected, and thus mingled with the commerce of the country? Why laboriously drag it off, far from its place of useful action, to places where it was not wanted, and could do no good, and there hold it under the key of the treasury?

This anticipation of the operation of the deposit law, this attempt at *local* distribution, this arbitrary system of transfer, which seems to forget at once the necessities of commerce and the real uses of money, I regard as the direct and prime cause of the pressure felt by the community. But the treasury order came powerfully in aid of this. This order checked the use of bank-notes in the West, and made another loud call for specie. The specie, therefore, is transferred to the West to pay for lands. Being received for lands, it becomes public revenue, is brought to the East for expenditure, and passes, on its way, other quantities going West, to buy lands also, and in the same way to return again to the East. Now, Sir, how does all this improve the currency? What fraud does it prevent, what speculation does it arrest, what monopoly does it suppress? I am very much mistaken if all this does not embarrass the small purchaser of land much more than the large one. He who has fifty or a hundred thousand dollars to lay out may collect his specie, not without some charge, it is true, but without a very heavy charge.

But if there be a man with a hundred or two dollars wanting to take up a small parcel for actual settlement, and his money be in bank-notes, and the bank, perhaps at a great discount, what has he to do? He must send for an exchange a little money: or else he must submit to any brokerage which he may find established in the neighborhood of the land office. Upon the actual operation of this order, however, I say the less as on that point Western gentlemen are better informed and better judges.

I am willing to hope, Sir, and indeed I do hope and believe, that when the first payment or deposit under the act of last session shall have been made, and the States shall have found some use and employment for the money, and when this unnatural transfer system shall cease, money will seek its natural channels, and commercial business resume, in some measure, its accustomed habits. But this treasury order will be a disturbing agent, every hour it is suffered to exist. Indeed, it cannot be allowed to exist long. It is not possible that the West can submit to a measure at once so injurious and so partial. Hard money at the land office, and bank-notes at the custom-house, must make men open their eyes after a while, whatever degree of political confidence weighs down their lids. I look upon it, therefore, as certain, that the order will not be permitted long to remain in force.

If I am now asked, Sir, whether, supposing this order to be rescinded, and the deposit law executed, and the transfers discontinued, affairs will return to their former state, I answer, with all candor, that, though I look, in that case, for a great improvement, I do not expect to see the domestic exchanges and the currency return entirely to their former state. I do not believe there is any agency at work, at present, competent to bring about this desirable end. In other words, I do not believe that the deposit banks, however well administered, can fully supply the place of a national institution; and I am very much mistaken if intelligent men, connected with those institutions themselves, believe any such thing. I find, that in 1828, 1829, 1830, 1831, and 1832, exchange at New York, in the Southern and Southwestern cities, averaged three fourths of one per cent. discount, or thereabouts. Now I doubt whether the most sanguine of those connected with the deposit banks expect to be able, through their means, to bring back exchanges to that state, or any thing like it.

The deposit banks are separate and distinct institutions, many of them strangers to each other, without full confidence in each other, and all acting without uniformity of purpose. Their objects are distinct, their capitals distinct, their interests distinct. If one of them has connection with some others, it yet has no unbroken chain of connection. They have nothing which runs through the whole circle of the exchanges, as that circle is drawn through the great commercial cities of the Union. They can only act in the business of exchange to the extent of funds, or not much beyond it, actually existing. A national institution, with branches or agencies at different points, may deal in exchanges between these points in amounts to meet the convenience of the public, without reference to the fact of the existence of local funds. One institution, therefore, with branches, has facilities which never can be possessed by different institutions, however honorably or ably conducted.

For myself, I am of the same opinion as formerly, that for the administration of the finances of the country, for the facility of internal exchanges, and for the due control and regulation of the actual currency, a national institution under proper guards and limits is by far the best means within our reach. And I am, as I always have been, of opinion, that Congress, having the power of regulating commerce and the power over the coinage, has power also, which it is bound to exercise, by lawful means, over that currency in which the revenue is to be collected, and which is to carry on that commerce, external and internal, which is thus committed to its regulation and protection. All the duties of this government are not fulfilled, in my judgment, while it leaves these great interests, thus confided to its own care, to the discretion of others, or to the result of chance. But I will not go farther into these subjects at the present time.

Mr. President, I am indifferent to the form in which the treasury order may be done away. Gentlemen may please themselves in the mode. I shall be satisfied with the substance. Believing it to be both illegal and injurious, I shall vote to rescind, to revoke, to abolish, to supersede, to do any thing which may have the effect of terminating its existence.

In Senate, January 30, 1837.

The bill to limit and designate the funds in which dues to the United States shall be receivable having been read a third time, and the question being on its passage, Mr. Morris having concluded an argument against the constitutionality of the bill, Mr. Webster said: —

When the resolution moved by the Senator from Ohio,* to rescind the treasury order of July last, was under discussion, I expressed the sentiments which I then entertained, and which I hold now, in regard to that measure. My great object, as I then said, and now say, is to get rid of the order. I was not, and am not now, very solicitous as to the particular mode. When the subject was sent to the Committee on the Public Lands, (though my own impression had been that it should have been referred rather to the Committee on Finance,) I assented, in the hope that they would confine what they should propose to the single object of getting rid of the order. But for that order, I presume that few would have been willing to touch the subject at all. The majority of the Senate were content that matters should remain as they were under the joint resolution of 1816. But as the order interfered with the provisions of that resolution, it was deemed necessary that something should be done. I regret that this bill is not such a one as was called for by the exigency, and confined to the exigency. It goes beyond what was needed, in important respects, and, though I most cordially wish for the abolition of the treasury order, there are some things in this bill which do not accord at all with my own view of what the public interest requires. I feel, therefore, somewhat at a loss to know what is the true line of my duty on this occasion.

I will state my difficulties. In the first place, I see nothing in the bill that is fixed and stable, defined and determinate; nothing peremptory and decisive, as matter of law. I asked the honorable chairman who reported the bill, whether he understood it to be peremptory in its character, and that it would be so in its practical effect, or not. His answer was, that he did not doubt that its operation would be to produce a great reform in the state of the currency. Now what I want to know is, whether this

* Mr. Ewing.

bill will furnish the country with a legal statute rule as to the payment of debts; or whether the whole matter will not be left very much in the discretion of the Secretary of the Treasury. I think it leaves too much in that discretion. It provides that he may issue such orders as he may deem necessary to secure the collection of the revenue in specie and bills of specie-paying banks. Now, supposing the Secretary should not think that any further order of any kind is necessary. Then matters will remain precisely as they are now. Suppose he should believe one kind of order necessary for one part of the country, and another for another part. The bill would allow all this. It secures no uniform or certain rule.

Again, the particular provisions of the bill appear to me (with great deference) not to have been well considered. If its enactments amount to a positive statute (and not a mere permission or recommendation), then neither land scrip nor Revolutionary scrip can be received for the public lands; or, if they can be received for the public lands, they can equally be received for the customs. This, I presume, was not intended. The bill is imperfect; it imposes no duty on the Secretary, it enacts no law to supersede a treasury order; the whole subject is left within the discretion of the Secretary.

While, on the one hand, it does not directly relieve the country from the existing illegal and unconstitutional treasury order, on the other, it does not provide a circulating medium which shall be uniform and legal in its character. Could we say, in so many words, that all the debts of this government shall be collected in such mode as the Secretary of the Treasury shall think best? or that such funds shall be received as the Secretary shall think most expedient, with a view to increase a specie circulation? thus presenting a mere indication of the object he is to have in view, and leaving all the rest to him. Would that be law? would that be constitutional? What sort of a tender might a debtor of the United States make, under this law, in discharge of his debt? Suppose he tenders Virginia land scrip, and the answer given him is, "The Secretary of the Treasury has not issued any order that land scrip shall be receivable at the custom-house," would that not be a good answer? As this bill repeals all other enactments *in pari materia*, does it not refer the whole to the Secretary? May he not issue one order to-day,

and another to-morrow? one order in the Northwest, and another in the Southwest? It is surely most important that on such a subject there should be a plain settled statutory provision, declaring what is receivable in discharge of debts due the government, so that men may know what are their rights. To me it appears that, by this bill, in its present form, the whole subject is left in greater doubt than before. If we do any thing with a view to rescinding the objectionable order, let us have a bill that shall apply to the exigency, to that single object, and give the country some uniform and stable rule. If we repeal the treasury order, let us reenact the resolution of 1816: that will get rid of any thing like rebuke or reproach in regard to the order, and will give us at least a law to guide us. As the bill stands, it leaves every thing at the will of the Secretary of the Treasury.

PROTEST AGAINST THE EXPUNGING RESOLUTION.*

THE Senate having under consideration the resolutions, moved by Mr. Benton, for *expunging* from the journal of proceedings of the Senate, for the 28th of March, 1834, a resolution declaring the opinion of the Senate concerning the illegality of the removal of the public money from its lawful place of deposit, the Bank of the United States; and the debate thereon having come to a close, and the question being about to be taken on agreeing to the said resolutions, Mr. Webster rose and addressed the Senate as follows: —

MR. PRESIDENT, — Upon the truth and justice of the original resolution of the Senate, and upon the authority of the Senate to pass that resolution, I had an opportunity to express my opinions at a subsequent period, when the President's Protest was before us. Those opinions remain altogether unchanged.

And now, had the Constitution secured the privilege of entering a PROTEST on the journal, I should not say one word on this occasion; although, if what is now proposed shall be accomplished, I know not what would have been the value of such a protest, however formally or carefully it might have been inserted in the body of that instrument.

But as there is no such constitutional privilege, I can only effect my purpose by thus addressing the Senate; and I rise, therefore, to make that PROTEST in this manner, in the face of the Senate and in the face of the country, which I cannot present in any other form.

* Remarks made in the Senate of the United States, on the 16th of January, 1837, by way of Protest against expunging the Resolution of the 28th of March, 1834, from the Journal.

I speak in my own behalf, and in behalf of my colleague. We both speak as Senators from the State of Massachusetts, and, as such, we solemnly protest against the whole proceeding.

We deny that Senators from other States have any power or authority to expunge any vote or votes which we have given here, and which we have recorded agreeably to the express provision of the Constitution.

We have a high personal interest, and the State whose representatives we are has also a high interest, in the preservation entire of every part and parcel of the record of our conduct as members of the Senate.

This record the Constitution solemnly declares shall be kept. but the resolution before the Senate declares that this record shall be *expunged*.

Whether subterfuge and evasion, and, as it appears to us, the degrading mockery of drawing black lines upon the journal, shall or shall not leave our names and our votes legible, when this violation of the record shall have been consummated, still the terms "to expunge" and the terms "to keep," when applied to a record, import ideas exactly contradictory: as much so as the terms "to preserve" and the terms "to destroy."

A record which is *expunged* is not a record which is *kept* any more than a record which is *destroyed* can be a record which is *preserved*. The part expunged is no longer part of the record; it has no longer a legal existence. It cannot be certified as a part of the proceedings of the Senate for any purpose of proof or evidence.

The object of the provision in the Constitution, as we think, most obviously is, that the proceedings of the Senate shall be preserved in writing, not for the present only, not until published only, because a copy of the printed journal is not regular legal evidence; but preserved indefinitely; preserved, as other records are preserved, till destroyed by time or accident.

Every one must see that matters of the highest importance depend on the permanent preservation of the journals of the two houses. What but the journals show that bills have been regularly passed into laws, through the several stages; what but the journals show who are members, or who is President, or Speaker, or Secretary, or Clerk of the body? What but the journals contain the proof necessary for the justification of those who act

under our authority, and who, without the power of producing such proof, must stand as trespassers? What but the journals show who is appointed, and who rejected, by us, on the President's nomination; or who is acquitted, or who convicted, in trials on impeachment? In short, is there, at any time, any other regular and legal proof of any act done by the Senate than the journal itself?

The idea, therefore, that the Senate is bound to preserve its journal only until it is published, and then may alter, mutilate, or destroy it at pleasure, appears to us one of the most extraordinary sentiments ever advanced.

We feel grateful to those friends who have shown, with so much clearness, that all the precedents relied on to justify or to excuse this proceeding are either not to the purpose, or, from the times and circumstances at and under which they happened, are no way entitled to respect in a free government, existing under a written constitution. But for ourselves, we stand on the plain words of that Constitution itself. A thousand precedents elsewhere made, whether ancient or modern, can neither rescind, nor control, nor explain away these words.

The words are, that "each house shall KEEP a journal of its proceedings." No gloss, no ingenuity, no specious interpretation, and much less any fair or just reasoning, can reconcile the process of expunging with the plain meaning of these words, to the satisfaction of the common sense and honest understanding of mankind.

If the Senate may now expunge one part of the journal of a former session, it may, with equal authority, expunge another part, or the whole. It may expunge the entire record of any one session, or of all sessions.

It seems to us inconceivable how any men can regard such a power, and its exercise at pleasure, as consistent with the injunction of the Constitution. It can make no difference what is the completeness or incompleteness of the act of expunging, or by what means done; whether by erasure, obliteration, or defacement; if by defacement, as here proposed, whether one word or many words are written on the face of the record; whether little ink or much ink is shed on the paper; or whether some part, or the whole, of the original written journal may yet by possibility be traced. If the act done be an act to expunge, to blot out, to

obliterate, to erase the record, then the record is expunged, blotted out, obliterated, and erased. And mutilation and alteration violate the record as much as obliteration or erasure. A record, subsequently altered, is not the original record. It no longer gives a just account of the proceedings of the Senate. It is no longer true. It is, in short, no journal of the real and actual proceedings of the Senate, such as the Constitution says each house shall keep.

The Constitution, therefore, is, in our deliberate judgment, violated by this proceeding, in the most plain and open manner.

The Constitution, moreover, provides that the *yeas and nays*, on any question, shall, at the request of one fifth of the members present, *be entered on the journal*. This provision, most manifestly, gives a personal right, to those members who may demand it, to the entry and preservation of their votes on the record of the proceedings of the body, not for one day or one year only, but for all time. There the *yeas and nays* are to stand, for ever, as permanent and lasting proof of the manner in which members have voted on great and important questions before them.

But it is now insisted that the votes of members taken by *yeas and nays*, and thus entered on the journal, as matter of right, may still be expunged; so that that which it requires more than four fifths of the Senators to prevent from being put on the journal may, nevertheless, be struck off, and erased, the next moment, or at any period afterwards, by the will of a mere majority; or if this be denied, then the absurdity is adopted of maintaining that this provision of the Constitution is fulfilled by merely preserving the *yeas and nays* on the journal, after having expunged and obliterated the very resolution, or the very question, on which they were given, and to which alone they refer; leaving the *yeas and nays* thus a mere list of names, connected with no subject, no question, no vote. We put it to the impartial judgment of mankind, if this proceeding be not in this respect also directly and palpably inconsistent with the Constitution.

We protest, in the most solemn manner, that other Senators have no authority to deprive us of our personal rights, secured to us by the Constitution, either by expunging, or obliterating, or mutilating, or defacing the record of our votes, duly entered

by *yeas and nays;* or by expunging and obliterating the resolutions or questions on which these votes were given and recorded.

We have seen, with deep and sincere pain, the legislatures of respectable States instructing the Senators of those States to vote for and support this violation of the journal of the Senate; and this pain is infinitely increased by our full belief, and entire conviction, that most, if not all, these proceedings of States had their origin in promptings from Washington; that they have been urgently requested and insisted on, as being necessary to the accomplishment of the intended purpose; and that it is nothing else but the influence and power of the executive branch of this government which has brought the legislatures of so many of the free States of this Union to quit the sphere of their ordinary duties, for the purpose of coöperating to accomplish a measure, in our judgment, so unconstitutional, so derogatory to the character of the Senate, and marked with so broad an impression of compliance with power.

But this resolution is to pass. We expect it. That cause which has been powerful enough to influence so many State legislatures will show itself powerful enough, especially with such aids, to secure the passage of the resolution here.

We make up our minds to behold the spectacle which is to ensue. We collect ourselves to look on in silence, while a scene is exhibited, which, if we did not regard it as a ruthless violation of a sacred instrument, would appear to us to be little elevated above the character of a contemptible farce. This scene we shall behold, and hundreds of American citizens, as many as may crowd into these lobbies and galleries, will behold it also; with what feelings I do not undertake to say.

But we PROTEST, we most solemnly PROTEST, against the substance and against the manner of this proceeding; against its object, against its form, and against its effect. We tell you that you have no right to mar or mutilate the record of our votes given here, and recorded according to the Constitution; we tell you that we may as well erase the *yeas and nays* on any other question or resolution, or on all questions and resolutions, as on this; we tell you that you have just as much right to falsify the record, by so altering it as to make us appear to have voted on any question as we did not vote, as you have to erase a record,

and make that page a blank in which our votes, as they were actually given and recorded, now stand. The one proceeding, as it appears to us, is as much a falsification of the record as the other.

Having made this PROTEST, our duty is performed. We rescue our own names, character, and honor from all participation in this matter; and whatever the wayward character of the times, the headlong and plunging spirit of party devotion, or the fear or the love of power, may have been able to bring about elsewhere, we desire to thank God that they have not, as yet, overcome the love of liberty, fidelity to true republican principles, and a sacred regard for the Constitution, in that State whose soil was drenched to a mire by the first and best blood of the Revolution. Massachusetts, as yet, has not been conquered; and while we have the honor to hold seats here as her Senators, we shall never consent to the sacrifice either of her rights or our own; we shall never fail to oppose what we regard as a plain and open violation of the Constitution of the country; and we should have thought ourselves wholly unworthy of her, if we had not, with all the solemnity and earnestness in our power, PROTESTED against the adoption of the resolution now before the Senate.

A NATIONAL BANK.*

I RISE, Mr. President, for the purpose of presenting to the Senate a petition signed by fourteen or fifteen hundred mercantile houses in the city of New York, praying for the establishment of a national bank in that city. These petitioners, Sir, set forth that, in their opinion, a national bank is the only remedy of a permanent character for the correction of the evils now affecting the currency of the country and the commercial exchanges. The petition is accompanied by a short communication from the committee raised for the purpose of preparing the petition, in which they state, what I believe to be true, from some knowledge of my own, that the petition is subscribed without reference to political distinctions; and they inform us, on the authority of their own observation and knowledge, that, in their opinion, on no subject did the mercantile community of New York ever address Congress with more entire unanimity than they now approach it, in favor of a national bank.

Mr. President, my own opinions on this subject have long been known; and they remain now what they always have been. The constitutional power of Congress to create a bank is made more apparent by the acknowledged necessity which the government is under to use some sort of banks as fiscal agents. The argument stated the other day by the member from Ohio, opposite to me,† and which I have suggested often heretofore, appears to me unanswerable; and that is, that, if the government has the power to use corporations in the fiscal con-

* Remarks made in the Senate of the United States, on the 8th of February, 1837, on presenting a Petition of a large Number of the Merchants of New York, for the Establishment of a National Bank.

† Mr. Morris.

cerns of the country, it must have the power to create such corporations. I have always thought that, when, by law, both houses of Congress declared the use of State banks necessary to the administration of the revenue, every argument against the constitutional power of Congress to create a Bank of the United States was thereby surrendered; that it is plain that, if Congress has the power to adopt banks for the particular use of the government, it has the power to create such institutions also, if it deem that mode the best. No government creates corporations for the mere purpose of giving existence to an artificial body. It is the end designed, the use to which it is to be applied, that decides the question, in general, whether the power exists to create such bodies. If such a corporation as a bank be necessary to government; if its use be indispensable, and if, on that ground, Congress may take into its service banks created by States, over which it has no control, and which are but poorly fitted for its purposes, how can it be maintained that Congress may not create a bank, by its own authority, responsible to itself, and well suited to promote the ends designed by it?

Mr. President, when the subject was last before the Senate, I expressed my own resolution not to make any movement towards the establishment of a national bank, till public opinion should call for it. In that resolution I still remain. But it gives me pleasure to have the opportunity of presenting this petition, out of respect to the signers; and I have no unwillingness certainly to have a proper opportunity of renewing the expression of my opinions on the subject, although I know that, so general has become the impression hostile to such an institution, any movement here would be vain till there is a change in public opinion. That there will be such a change I fully believe; it will be brought about, I think, by experience and sober reflection among the people; and when it shall come, then will be the proper time for a movement on the subject in the public councils. Not only in New York, but from here to Maine, I believe it is now the opinion of five sixths of the whole mercantile community, that a national bank is indispensable to the steady regulation of the currency, and the facility and cheapness of exchanges. The board of trade at New York presented a memorial in favor of the same object some time ago. The Committee on Finance reported against the prayer of the petitioners,

as was to have been expected from the known sentiments of a majority of that committee. In presenting this petition now to the consideration of the Senate, I have done all that I purpose on this occasion, except to move that the petition be laid on the table and printed.

Sir, on the subjects of currency and of the exchanges of commerce, experience is likely to make us wiser than we now are. These highly interesting subjects, interesting to the property, the business, and the means of support of all classes, ought not to be connected with mere party questions and temporary politics. In the business and transactions of life, men need security, steadiness, and a permanent system. This is the very last field for the exhibition of experiments, and I fervently hope that intelligent men, in and out of Congress, will coöperate in measures which may be reasonably expected to accomplish these desirable objects, desirable and important alike to all classes and descriptions of people.

The petition and accompanying letter were then ordered to be printed.

THE MADISON PAPERS.*

THE joint resolution for making an appropriation for the purchase of the manuscript papers of the late President Madison, relative to the proceedings of the Convention that framed the Constitution of the United States, being under consideration, Mr. Webster spoke as follows: —

I SUPPOSE there is no member of the Senate who regards the sum proposed to be given for these manuscripts as too large, if the appropriation is within the just field of our constitutional powers. Now, what is the object of this appropriation? The Senate sits under a Constitution which has now endured more than fifty years, which was formed under very peculiar circumstances, under a great exigency, and in a manner in which no constitution was ever formed in any other country, on principles of united and yet divided legislation, altogether unexampled in the history of free states. I agree fully in the sentiment that the constant rule of interpretation to be applied to this instrument is, that its restrictions are contained in itself, and that it is to be made, as far as possible, its own interpreter. I also agree that the practice under the government, for a long course of years, and the opinions of those who both formed the instrument, and afterward aided in carrying it into effect by laws passed under its authority, are to be the next source of interpretation; and it seems to me that the measure now proposed is of great importance, both in connection with the Constitution itself, and with the history of its interpretation. I shall not now speak of the political opinions of Mr. Madison. I look only to the general facts of the case. It is well known that the convention

* Remarks made in the Senate of the United States, on the 20th of February, 1837, in relation to the Purchase of the Manuscript Papers of Mr. Madison.

of great men who formed our Constitution sat with closed doors: that no report of their proceedings was published at that time: and that their debates were listened to by none but themselves and the officers in attendance. We have, indeed, the official journal kept by their order. It is an important document, but it informs us only of their official acts. We get from it nothing whatever of the debates in that illustrious body. Besides this, there are only a few published sketches, more or less valuable. But the connection of Mr. Madison with the Constitution and the government, and his profound knowledge of all that related to both, would necessarily give to any reports which he should have taken a superior claim to accuracy. It was his purpose, when he entered the body, to report its whole proceedings. He chose a position which best enabled him to do so: nor was he absent a single day during the whole period of its sittings. It was further understood that his report of the leading speeches had been submitted to the members for correction. The fact was well known to them all, that he was thus collecting materials for a detailed report of their proceedings. Without, therefore, seeing a page of these manuscripts, it is reasonable to conclude that they must contain matter not only highly interesting, but very useful; and it is my impression that, among this class of cases, the Senate could not better consult the wishes and interests of the American people than by letting them see a document of this character, from the pen of such a man as Mr. Madison. That gentleman was more connected with the Constitution than almost any other individual. He was present in that little assemblage that met at Annapolis in 1786, with whom the idea of the Convention originated. He was afterwards a member of the convention of Virginia which ratified the Constitution. He was next a member of the first Congress, and took an important lead in the great duties of its legislation under that Constitution in the formation of which he had acted so conspicuous a part. He afterwards filled the important station of Secretary of State, and was subsequently for eight years President of the United States. Thus, his whole life was intimately connected, first with the formation, and then with the administration, of the Constitution.

Mr. President, I see no constitutional objection to the purchase of these manuscripts. Why do Congress purchase every year

works on history, geography, botany, metaphysics, and morals? How was it that they purchased a collection of works of the most miscellaneous character from Mr. Jefferson? The manuscripts in question stand in a different relation. They relate immediately and intimately to the nation's own affairs, and especially to the construction of that great instrument under which the houses of Congress are now sitting. If the doctrine advanced by the Senator from South Carolina is to prevail, Congress ought forthwith to clear its library of every thing but the state papers. My views on the Constitution are well known; whether an inspection of these papers will confirm and strengthen the views I entertain respecting that instrument, I cannot say; but certainly, if they were now within my reach, I should be very eager to read them; and their examination would be one of the very first things that I should engage in. A report of such debates, from such a pen, cannot but be of the highest importance, and its perusal is well calculated to gratify a rational curiosity. It may throw much light on the early interpretation of the Constitution, and on the nature and structure of our government. But while it produces this effect, it may do more than all other things to show to the people of the United States through what conciliation, through what a temper of compromise, through what a just yielding of the judgment of one individual to that of another, through what a spirit of mutual brotherly love, that assembly of illustrious men were enabled finally to agree upon the form of a Constitution for their country, and succeeded in conferring so great a good upon the American people.

THE REDUCTION OF THE DUTY ON COAL.*

THE bill to reduce the tariff being under consideration, Mr. Niles of Connecticut moved to amend the bill as follows: —

"That, from and after the 30th day of September, 1837, the duty on fossil coal, culm coal screenings, and coke, imported into the United States, shall be one dollar per ton of two thousand two hundred and forty pounds; and that after the 30th day of September, 1838, the duty shall be sixty cents per ton."

Mr. Niles and Mr. Buchanan having spoken, Mr. Webster said: —

IT has been very truly stated, that coal is, in this country, a necessary of life; and an argument has thence been drawn which is capable of producing a very erroneous impression in the community, namely, that the interest of the poor requires the interposition of Congress to remove the duty now levied on its importation. Considering what has been the former course of Congress on this subject, it is as clear a proposition as can be stated, that the interest of the poor requires the continuance of the tax. If I were not convinced of this, I certainly should not be in favor of retaining it. Whether we look to the debates of the Convention or to the earliest acts of the federal government, we shall perceive that it was admitted to be proper and necessary to levy a duty on imported coal. One of the very first articles enumerated in the first revenue law is foreign coal. The protection of the domestic article was warmly advocated, at that time, by the Virginia delegation, as an obvious duty of the new government; for, although all duties had had revenue as their main object, yet ever since 1824 many of them had been con-

* Remarks made in the Senate of the United States, on the 24th of February, 1837, in relation to the Reduction of the Duty on Coal.

tinued for other purposes, and among the rest, this duty on coal. I voted against retaining it; but from that time to this the duty has retained its place in the law, on a presumed pledge of protection to such of our own citizens as are engaged in furnishing coal from the mines of our own country. A large amount of capital has been invested in machinery and wages, and also in the construction of canals and railroads leading from the mines towards places of deposit or shipment. An examination will show that the sum thus invested is not less than forty millions of dollars. What, then, is the proper course to be pursued with a view to bring down the price of coal? American coal is not the only fuel of this kind in market. It stands alongside of the imported article, and there is a fair competition between them. Is there any thing so effectual in reducing the price as a fair and free competition? Here the skill and industry of our own and of foreign nations compete for the market; and, if any thing is likely to reduce the price of this necessary of life, and thus to benefit the poor, it is this. That taking off the duty will reduce the price is perfect nonsense. The effect will be just the reverse.

It was this continual bringing forward of propositions to alter the most settled features of our policy, which is, in practice, so injurious to American industry and enterprise. In illustration of this remark, I will observe that it is not long since a very curious debate took place in London, at a meeting of the creditors of the late Duke of York. Among other items of his property was a great coal mine in Nova Scotia. Certain trustees of the estate had been directed to work it. The question with the creditors was, whether the working of this mine should still be prosecuted, or what should be done with it. On inquiring of the trustees, those gentlemen stated that the mine was now not very productive, but that the policy of the American government in relation to duties was vacillating and uncertain; that very soon the protective duty on foreign coal would probably be taken off, and then they would have the entire American market. The proposition of the honorable Senator from Connecticut is calculated to hasten this state of things, and to justify the calculation of these British trustees. So it seems that the motion of the creditors of the Duke of York is to aid the poor of the United States! The effect will be found directly the reverse.

peal of the duty will be immediately followed by an increase of the price of the article.

The speech of the honorable Senator seemed to proceed on the assumption that Pennsylvania alone was to be affected by the measure proposed. But such is by no means the fact. It is very true that Pennsylvania is largely interested. She possesses extensive coal mines, and large amounts of capital have been invested by her citizens in this branch of enterprise. But the mountains of Maryland are as rich in bituminous coal as those of Pennsylvania are in the anthracite. Why has the government subscribed so largely to aid in the construction of the Chesapeake and Ohio Canal? Is it not expressly with a view to reaching the extensive coal beds near Cumberland? That canal, when completed, will be possessed of great facilities, and in some respects will have the advantage over the canals of Pennsylvania, because it will not be frozen so early in the season. Congress have done this partly with a view to securing their own supply. It is said, indeed, that the freight on coal is very large; but every body knows that, while our exports are cumbrous, coal is brought back partly as ballast. Vessels which take out cargoes of cotton bring coal, as they bring salt, on their return voyage, at very low rates, so that there is no great protection to our own miners in that respect.

I object to this breaking in upon a course of long-established and settled policy. This item of coal presents one of the clearest cases in the whole list of protected articles. It stands on as firm ground as woollens themselves, because the business of supplying it to the home market cannot be carried on without a great investment of capital. That investment has been actually made. The enterprise is in a course of successful operation, and the ultimate effect must be the supply of this important article of fuel at the cheapest practicable rate. The fears of monopoly are groundless; the canals are open to all; so is the mountain property; and it is abundant in Pennsylvania, in Virginia, and in the States on both sides of the great mountain range. If any reliance is to be placed on information received, the article can be furnished in abundance, with a reasonable profit, at a cheap rate. Under these circumstances, would it be wise in government to interfere? No complaint has been heard till within one season past; and because there is, at this time, a

temporary pressure, is it worth while to raise the cry of the poor against the rich, and thus to destroy a branch of industry which is in itself, and in its consequences, an invaluable boon to the poor? Is this a long-sighted policy? I think not: and it is evident the Committee on Finance have thought not, for they have not inserted this item in the bill.

This protective duty on coal stands upon a just foundation; it is subject to the gradual operation of the act of 1833, and ought not to be meddled with. This is no case in which the abuses of "regraters, forestallers," &c., call for the interposition of the law. The trade is free and open to all; coal lands are cheap, and in market everywhere, but it requires the outlay of some capital to turn them to account. If this perpetual cry against every thing which requires capital, and this crusade against all who possess it, are to be indulged, how can the internal improvement of the country ever go on? The nation, while surrounded by all manner of natural advantages, must sit down content to be poor. Is it not manifest, where few are very rich, that any thing which carries on the work of supply must be accomplished by combination and the collection of capital? If the government are resolved not to leave the enterprises of our citizens to the effect of fair competition, but perpetually interpose under the false notion of protecting the poor, great results can never be produced. The Pennsylvania canals have been decried as a monopoly. They are not a monopoly. Some of them belong to the State, and, with a wise and liberal policy, she has thrown them open to all. Since the government has by its own acts, invited this investment, will you not consent to let well enough alone? I am not willing to turn accidents, or mere transient and temporary difficulties, into the ground of continuous usage. I wish to see other avenues opened to the mountains, as well as those of Pennsylvania. I hold it the true interest of the community in relation to this supply of coal, and in consideration of the present state of things, to let those who have embarked in the business go on, till competition between them shall, by its natural operation, bring down the price to its minimum. To that point [illegible] and when that has been reached, it will be time to consider whether any other and further legislation [illegible] is necessary.

After some further remarks by Mr. Niles and Mr. Preston, Mr. Webster said: —

I should not have entered farther into the present debate if the member from Connecticut had not (as unfortunately he too often does) both misunderstood and misrepresented it. The member has represented me as saying the reverse of what I did say. That gentleman has quoted me as asserting that the poor have no interest in the reduction of the price of coal, whereas I said exactly the reverse. The honorable member seems to be in the habit of framing remarks for others, and then commenting upon them. I expressly declared that, if I thought the interest of the poor would be promoted by reducing this tax, I would vote for its reduction, and that I was opposed to it only because I believed that the true interest of that class, and of every other class in the community, required that the government should keep its hands off from the subject entirely. I again and again declared that I did not mean to advocate the cause of the rich in opposing this reduction, because I believed that keeping on the tax would eventually bring down the price of the article to the poor. The member does not meet this argument. He does not contradict it, but stalks around it, while he dwells upon monopolies and the influence of rich men on the legislation of Congress. I do not doubt that the object at which the Senator means to aim is to make coal cheap; and does he not understand that this too is my aim? How, then, can he impute to me the design to protect the capitalist, in derogation of the laborer? to advance wealth and disregard numbers? I hope we shall all in future endeavor to state each other's arguments with at least some degree of fairness.

Coal is a necessary of life to all; to the poor as well as to the rich. The object to be attained is to get it as cheap as possible. The existing state of things has grown up under laws passed fifteen years ago, and the question is, whether, under that state of things, the proposition of the member from Connecticut would, in its principal result, lower the market price of this species of fuel. The member thinks it would. I think otherwise, and have given reasons for this opinion which I hope are not altogether contemptible, and such as do not rightfully expose me to the charge of advocating the interests of wealth against labor. My argument was briefly this. Here is a large capital actually

invested in roads, canals, and machinery, the effect of which will, in a short time, make coal abundant, and thereby make it cheap; while, in the mean while, the foreign supply is not wholly excluded, and enough is imported to keep down the price by competition. The honorable member thinks that Congress, by taking off this tax, would give the exclusive power of keeping up the price to American producers. I differ from him in opinion. I think that, by taking off this tax, we shall give that power to British producers, and make our citizens the victims of their extortions. Do not rich men as well as poor men make use of coal as a fuel? Is it not their interest to have fuel cheap, as well as the interest of every body else?

Ah, but the member is for the protection of labor. Very true. And I insist that the protective policy of the United States is aimed point-blank at the protection of labor. Do not the poor of our cities warm themselves over coal fires? What glowing pictures, or rather what shivering pictures of suffering have been presented to the Senate in the eloquent descriptions (if he thinks them eloquent) of the honorable gentleman from South Carolina! But was not the laboring class in our cities the very first who received the protection of this government? The first demand of a constitution was for their protection. It was the operatives spread along the Atlantic coast whose voices brought the Constitution into being. It was not the voices of Hancock and Adams, but of Paul Revere and his artisans, that most efficiently advocated the movement for independence. It was the pouring in of a flood of foreign manufactures that gave the first impulse towards the adoption of a constitution for our own protection; and has not the labor of the whole country been protected under it to this day? Have not the labo[illegible] classes of the United States their life and breath and being [illegible] instrument? Take off the protection which it ex[illegible] ters and the shoemakers, and the whole class of m[illegible] work in leather, and see what would be the result [illegible] gentleman's own State* and take off the duty on [illegible] he might possibly hear the [illegible] of that argu[illegible] cents on every coffee-pot! [illegible] would the member [illegible]

But it becomes enlightened [illegible]

* Conne[illegible]

of this subject. The true way to protect the poor is to protect their labor. Give them work and protect their earnings; that is the way to benefit the poor. Our artisans, I repeat it, were the first to be protected by the Constitution. The protection extended under our laws to capital was as nothing to that which was given to labor; and so it should be. Since, in the year 1824, I stood upon this ground, I have retained the same position, and there I mean to stand. The free labor of the United States deserves to be protected, and, so far as any efforts of mine can go, it shall be. The gentleman from Connecticut tells us that coal is a bounty of Providence; that our mountains are full of it; that we have only to take hold of what God has given us. Well, Sir, I am for protecting the man who does take hold of it; who bores the rock; who penetrates the mountain; who excavates the mine, and by his assiduous labor puts us into the practical possession of this bounty of Providence. It is not wealth while it lies in the mountain. It is human labor which brings it out and makes it wealth. I am for protecting that poor laborer whose brawny arms thus enrich the State. I am for providing him with cheap fuel, that he may warm himself and his wife and children.

I observe that the very next item in the bill is one connected with the woollen factories in Connecticut. Will the honorable member go against all protecting principles? Will he talk to us on that item as he has done on this? Does not the poor man wear a cloth coat? Does he not want a great coat in cold weather? And is not that cloth taxed, and taxed for the benefit of Connecticut, and for the capitalists of Connecticut? Is cloth no necessary of life? Will the member draw us as fine a picture of the poor man shivering for want of a great coat of Connecticut cloth, as for want of a fire of Pennsylvania coal? Sir, the man who catches hold of a little idea here, and a little idea there, and holds these out to us to show that a great line of national policy is unjust, takes a view, in my apprehension, too little comprehensive. We must not tax the fuel with which the poor man warms himself, because it is a necessary of life. And pray what will the honorable member do with bread? Is not that a necessary of life? And will any man here rise in his place, and move to take off the duty on wheat? Are not thousands of bushels imported from Europe? Does not the poor man pay

the tax on it? Again I ask, will the honorable member bring in a bill to take off the duty on wheat? There is a duty on brown sugar; will he move to repeal that? If he will comprehend all the items included under the same principle of economy, it will show at least some consistency; but to select this article of coal, and urge us to make it free because it is a necessary of life, while he advocates a tax on other things equally necessary, is to act with no consistency at all. I know very well that many of the citizens of Boston have applied to have this tax diminished, and, if I thought it could with propriety be done, I would cheerfully do it. Some petitions, too, have been presented from one of our fishing towns; but they ought to remember that all bounties on the fisheries, as well as this duty on coal, rest upon one great basis of mutual concession for the protection of labor, and for the benefit especially of the operative classes of society. And whoever says that this is a system which favors capital at the expense of the poor, misrepresents its advocates, and perverts the whole matter.

There are many other views which belong to the subject, but I will not now prosecute the argument. My object is to make coal cheap, *permanently* cheap; cheap to the poor man as well as the rich man; and to that end we shall arrive, if the laws are suffered to take their course. But to meddle with them, in the existing state of things, is the very worst thing that can be done either for poor or rich.

PAYMENT OF THE FOURTH INSTALMENT OF THE SURPLUS REVENUE.*

THE importance of the present crisis, and the urgency of this occasion, are such as to lead me earnestly to desire that some measures of adequate relief may come from those who alone have the power to effect any thing, by the majority which they command. Much as I differ from them, I would be glad to accept any measure of substantial relief which they may bring forward. I think, Sir, I see such a necessity for relief as never before, within my recollection, has existed in this country; and I regret to be obliged to say, that the measures proposed by the President, in his message to Congress, and reiterated by the Secretary of the Treasury, in his report to the same body, only regard one object, and are, in their tendency, only directed to one branch of partial relief. The evils, however, under which the community now suffers, though related to each other, and of the same family, are yet capable of distinct consideration. In the first place, there are the wants of the treasury, arising from the stoppage of payments and the falling off of the revenue. This is an exigency requiring the consideration of Congress; it is an evil threatening to suspend the functions at least one department of the government, unless it be relieved. Another and a greater evil is the prostration of credit, the disruption brought upon all business transactions, arising from the suspension of all the local banks throughout the country, with some few and trifling exceptions. Hence have proceeded the prostration of the local currency, and a serious obstruction and difficulty in the way of buying and selling. A

* A Speech delivered in the Senate of the United States, on the ... ber, 1837, on the Bill to postpone the Payment to the States ... stalment of the Surplus Revenue.

is the want of an accredited paper medium, equal to specie, having equal credit over all parts of the country, capable of serving for the payment of debts and carrying on the internal business of the country throughout and between the different and distant sections of this great Union. These three evils, though they are coexistent and cognate in their being, cannot be met by the same measures of relief. It does not follow, if relief is given to the one, that you will relieve the others. If you replenish the treasury, and thus bring a remedy to that evil, this affords no relief to the disordered currency. Again; if the local currency is relieved, it does not supply the other want, namely, that of a universally accredited medium.

It is no doubt a matter of general remark, that the most important objection to the message is, that it says nothing about relief to the country, directly and mainly; the whole amount of the proposition it contains relates to the government itself; the interest of the community is treated as collateral, incidental, and contingent. So, in the communication made by the Secretary of the Treasury, the state of the currency, the condition in which the commerce and trade of the country now are, is not looked at as a prominent and material object. The Secretary's report, as well as the message itself, exclusively regards the interest of the government, forgetting or passing by the people. The outpourings of the Secretary, which are very considerable in quantity, are under seven heads, the exact number of the seven vials of which we read; but the contents of none of these are concocted or prepared in reference to the benefit of the community; all the medicine is intended for the government treasury, and there is none for the sickness and disease of society, except collaterally, remotely, and by the way. It is, however, to the credit of the President that he has given, in an unequivocal and intelligible manner, his reasons for not recommending a plan for the relief of the country; and they are, that, according to his view, it is not within the constitutional province of government. I confess this declaration is to me quite astounding, and I cannot but think that, when it comes to be considered, it will produce a shock throughout the country. This avowed disregard for the public distress, upon the ground of the alleged want of power; this exclusive concern for the interest of government and revenue; this broad line of distinction, now, for the first

time, drawn between the interests of the government and the interests of the people, must certainly be regarded as commencing a new era in our politics. For one, I consider government as but a mere agency; it acts not for itself, but for the country; the whole end and design of its being are to promote the general interests of the community. Peculiar interests, selfish interests, exclusive regard for itself, are wholly incompatible with the objects of its institution, and pervert it from its true character as an agency for the people into a separate, dominant power, with purposes and objects exclusively its own.

Holding decided opinions on this subject, and being prepared to stand by and maintain them, I am certainly rejoiced at the clear shape which the question has at last assumed. Now, he that runs may read; there are none but can see what the question is: Is there any duty incumbent on this government to superintend the actual currency of the country? Has it any thing to do beyond the regulation of the gold and silver coin? In that state of mixed currency which existed when the Constitution was formed, and which has existed ever since, is it, or is it not, a part of the duty of the government to exercise a supervisory care and concern over that which constitutes by far the greater part of that currency? In other words, may this government abandon to the States and to the local banks, without control or supervision, the unrestrained issue of paper for circulation, without any attempt, on its own part, to establish a paper medium which shall be equivalent to specie, and universally accredited all over the country? Or, Mr. President, to put the question in still other words, since this government has the regulation of trade, not only between the United States and foreign countries, but between the several States themselves, has it nevertheless no power over that which is the most important and essential agent or instrument of trade, the actual circulating medium? On these questions, as I have already said, I entertain sentiments wholly different from those which the message expresses.

It is, in my view, an imperative duty imposed upon this government by the Constitution, to exercise a supervisory care and control over all that is in the country assuming the nature of a currency, whether it be metal or whether it be paper; all the coinage of the country is placed in the power of the federal

government; no State, by its stamp, can give value to a brass farthing. The power to regulate trade and commerce between the United States and foreign or Indian nations, and also between the respective States themselves, is expressly conferred by the Constitution upon the general government. It is clear that the power to regulate commerce between the States carries with it, not impliedly, but necessarily and directly, a full power of regulating the essential element of commerce, namely, the currency of the country, the money, which constitutes the life and soul of commerce. We live in an age when paper money is an essential element in all trade between the States; its use is inseparably connected with all commercial transactions. That it is so is now evident, since, by the suspension of those institutions from which this kind of money emanates, all business is comparatively at a stand. Now, Sir, what I maintain is simply this; that it surely is the duty of somebody to take care of the currency of the country; it is a duty imposed upon some power in this country, as in every other civilized nation in the world.

I repeat, Sir, that it is the duty of some government or other to supervise the currency. Surely, if we have a paper medium in the country, it ought only to exist under the sanction and supervision of the government of the country. If the general government does not exercise this supervision, who else, I should like to know, is to do it? Who supposes that it belongs to any of the State governments, for example, to provide for or regulate the currency between New Orleans and New York?

The idea has been thrown out, that it is not the duty of the government to make provision for domestic exchanges, and the practice of other governments has been referred to; but in this particular, I think, a great mistake has been committed. It is certainly far otherwise in England; she provides for them most admirably, though by means perhaps not altogether in our power. She, however, and other nations provide for them, and it is plain and obvious that, if we are to have a paper medium of general credit in this country, it must be under the sanction and supervision of the government. Such a currency in itself a proper provision for exchanges. If there be a paper medium always equivalent to coin, and of equal credit in every part of the country, this itself becomes a most important [redacted]

exchange. Currency and exchange thus become united; in providing for one, government provides for the other. If the government will do its duty on the great subject of the currency, the mercantile and industrious classes will feel the benefit through all the operations of exchange. No doubt some modes of establishing such a currency may be more favorable to exchange than others; but, by whatever mode established, such a currency must be extensively useful. The question, therefore, comes to this, whether we are to have such a medium. I understand there are gentlemen who are opposed to all paper money, who would have no circulating medium whatever but gold and silver. This, at all events, is an intelligible proposition; but as to those who say that there may be a paper medium, and yet that there shall be no such medium universally receivable, and of general credit, however honest the purposes of such gentlemen may be, I cannot perceive the soundness of their views; I cannot comprehend the utility of their intentions; I can have no faith, Sir, in any such systems. I would ask this plain question, whether any one imagines that all the duty of government, in respect to the currency, is comprised in merely taking care that the gold and silver coin be not debased. If this be all its duty, that duty is performed, for there is no debasement of them; they are good and sound. If this is all the duty of government, it has done its duty; but if government is bound to regulate commerce and trade, and consequently to exercise oversight and care over that which is the essential element of all the transactions of commerce, then government has done nothing.

I shall not, however, enter into this question to-day, nor perhaps on any early occasion. My opinions upon it are all well known, and I leave it with great confidence to the judgment of the country, only expressing my strong conviction that, until the people do make up their minds, and cause the result of their conclusions to be carried into effect by their representatives, there will be nothing but agitation and uncertainty, confusion and distress, in the commerce and trade of the country.

I shall now confine myself to a few remarks on the bill before us, and not detain the Senate longer than will be strictly necessary to give a plain statement of my opinion.

This measure is proposed in order to provide for the wants of

the government. I agree that this is a necessary power; but the question is, whether this bill is the proper mode of making such a provision. I do not think it is, though others may think differently. If this is indeed the best mode, I should wish to see it carried into execution: for relief is wanted both in the treasury and by the country. But first and chiefly in the country.

I do not say that, by the law providing for this deposit with the States of the surplus revenue, the States have any legal right to it. I prefer to put the matter entirely on the footing of convenience and expediency: and when it is considered what expectations have been raised that the money has even been already disposed of in advance by the several States in different purposes, such as internal improvements, education, and other great objects, it becomes a question of expediency whether it would not be better to supply the wants of the treasury by other means.

Another consideration of great importance in my view is this. There are already many disturbing causes in operation, agitating society in all the various ramifications of business and commerce. Now I would ask, Sir, is it advisable, is it wise, is it even politic, to introduce, at such a time as this, another great disturbing cause, producing a reversed action, altering the destiny of this money, overthrowing contracts now entered into, disappointing expectations raised, disturbing, unsettling, and deranging still more the already deranged business transactions of the whole country? I would ask, is it worth while to do this? I think not.

We are to consider that this money, according to the provisions of the existing law, is to go equally among all the States, and among all the people; and the wants of the treasury must be supplied, if supplies be necessary, equally by all the people. It is not a question, therefore, whether some shall have money, and others shall make good the deficiency. All partake in the distribution, and all will contribute to the supply. So that it is a mere question of convenience, and in my opinion it is decidedly most convenient, on all accounts, that this instalment should follow its present destination, and the necessities of the treasury be provided for by other means.

Again, if you pass this bill, what is it? It is mere *brutum fulmen;* of itself it is incapable of producing any good.

admit there is no money; therefore the bill will give no relief to the treasury. This bill, Mr. President, will not produce to the Secretary one dollar; he acknowledges himself, that at all events it will not produce him many, for he says he wants other aid, and he has applied to Congress for an issue of some millions in treasury-notes. He gets the money, therefore, just as well without this bill as with it. The bill itself, then, is unnecessary, depriving the States of a sum which the Secretary cannot avail himself of, and which sum, notwithstanding this bill, he proposes to supply by an issue of government notes. This he calls collateral aid to the measure of postponement; but it evidently reverses the order of things, for the treasury-notes are his main reliance. To them only he looks for immediate relief; and this instalment now to be withheld is (as a productive source of revenue) only subsequent and collateral to the issue of the notes.

But now, Sir, what sort of notes does the Secretary propose to issue? He proposes to issue treasury-notes of small denominations, down even as low as twenty dollars, not bearing interest, and redeemable at no fixed period; they are to be received in debts due to government, but are not otherwise to be paid until, at some indefinite time, there shall be a certain surplus in the treasury beyond what the Secretary may think its wants require. Now, Sir, this is plain, authentic, statutable paper money; it is exactly a new emission of old Continental. If the genius of the old Confederation were now to rise up in the midst of us, he could not furnish us, from the abundant stores of his recollection, with a more perfect model of paper money. It carries no interest; it has no fixed time of payment; it is to circulate as currency; and it is to circulate on the credit of government alone, with no fixed period of redemption! If this be not paper money, pray, Sir, what is it? And, Sir, who expected this? Who expected that, in the fifth year of the *experiment for reforming the currency*, and bringing it to an absolute gold and silver circulation, the Treasury Department would be found recommending to us a regular emission of PAPER MONEY? This, Sir, is quite new in the history of this government; it belongs to that of the Confederation, which has passed away.

Since 1789, although we had issued treasury-notes on sundry occasions, we had issued none like these; that is to say, we had issued none not bearing interest, intended for circulation,

and with no fixed mode of redemption. I am glad, however, Mr. President, that the committee have not adopted the Secretary's recommendation, and that they have recommended the issue of treasury-notes of a description more conformable to the practice of the government.

I think, Sir, there are ways by which the deposits with the States might be paid by the funds in the banks. There are large sums on deposit in some of the States, and an arrangement might be made for the States to receive the notes of their own banks in payment of this instalment, while the treasury is at the same time relieved by its own measure, and all the inconvenience, disappointment, and disturbance which this bill will necessarily create would be avoided. At any rate, the payment of this deposit could do no more than in some measure to increase the amount of treasury-notes necessary to be issued; it is a question of quantity merely. Much of the instalment, I believe, might be paid, by judicious arrangements, out of those funds now in the banks, which the Secretary cannot use for other purposes, so that the whole might be provided for by no great augmentation of the proposed amount of treasury-notes. I am, therefore, of opinion that this instalment should not be withheld; — 1st. Because the withholding of it will produce great inconvenience to the States and to the people; 2d. Because provision may be made for paying it without any large addition to the sum which it is proposed to raise, and which, at all events, must be raised for the uses of the treasury.

In relation to the general subjects of the message, there is one thing which I intended to have said, but have omitted. It is this. We have seen the declaration of the President, in which he says that he refrains from suggesting any specific plan for the regulation of the exchanges of the country, and for relieving mercantile embarrassments, or for interfering with the ordinary operation of foreign or domestic commerce; and that he does this from a conviction that such measures are not within the constitutional province of the general government. And yet he has made a recommendation to Congress which appears to me to be very remarkable; and it is of a measure which he thinks may prove a salutary remedy against a depreciated paper currency. This measure is neither more nor less than a bankrupt law against corporations and other bankers.

Now, Mr. President, it is certainly true that the Constitution authorizes Congress to establish uniform rules on the subject of bankruptcies; but it is equally true, and abundantly manifest, that this power was not granted with any reference to currency questions. It is a general power, a power to make uniform rules on the subject. How is it possible that such a power can be fairly exercised by seizing on corporations and bankers, but excluding all the other usual subjects of bankrupt laws? Besides, do such laws ordinarily extend to corporations at all? But suppose they might be so extended by a bankrupt law enacted for the usual purposes contemplated by such laws, how can a law be defended which embraces them and bankers alone? I should like to hear what the learned gentleman at the head of the Judiciary Committee, to whom the subject is referred, has to say upon it.

How does the President's suggestion conform to his notions of the Constitution? The object of bankrupt laws, Sir, has no relation to currency. It is simply to distribute the effects of insolvent debtors among their creditors; and I must say, it strikes me that it would be a great perversion of the power conferred on Congress to exercise it upon corporations and bankers, with the leading and primary object of remedying a depreciated paper currency.

And this appears the more extraordinary, inasmuch as the President is of opinion that the general subject of the currency is not within our province. Bankruptcy, in its common and just meaning, is within our province. Currency, says the message, is not. But we have a bankruptcy power in the Constitution, and we will use this power, not for bankruptcy, indeed, but for currency. This, I confess, Sir, appears to me to be the short statement of the matter. I would not do the message or its author any intentional injustice, nor create any apparent, where there was not a real, inconsistency; but I declare, in all sincerity, that I cannot reconcile the proposed use of the bankrupt power with those opinions of the message which respect the authority of Congress over the currency of the country.

Mr. Wright of New York having made some remarks, Mr. Webster said in reply: —

If the act of 1815 authorized the issuing of treasury-notes, no

circulation ever took place of such notes as the Secretary now recommends. All treasury-notes went on the ground of a temporary loan to the government, to be paid or funded as soon as the treasury would allow.

The member from New York has said that the question before the Senate is a simple proposition whether they should borrow money to be safely kept with the States. By him and by others it has also been represented as a question whether they should borrow money to give away. Nobody, certainly, would borrow money merely to give away, or deposit for safe-keeping. But I will put it to the honorable member, if any government had made a contract, or excited an expectation, that a deposit would be made, and the other party had acted on the faith of this assurance, and had nearly completed their arrangements, whether it ought not to supply the means, even if it did not at the time possess them. And suppose it was the promise of a gift, instead of a deposit, might it not be found more just to borrow than to defeat the expectation on which the other party had acted? What is the object of this bill? It is not to repeal, but to postpone what is hereafter to be fulfilled. Such being the case, it is doubtful whether the funds in question could ever be transferred to the States with more convenience than they can now be transferred from the banks.

During the late war there was great want of money, and a great disposition to use treasury-notes, and pass them as a medium of payment to the public creditors. But in the difficulties and embarrassments of a foreign war, things were done which, in a day of peace and abundance, we should be slow to do. One thing which we should be slow to do is, to propose by law that we should pay the public creditors any thing less in value than gold and silver, on the condition that the creditors will voluntarily take it. The Secretary has said that the protested checks now in circulation were only a little depreciated below the value of specie, and argues that these notes will be as good at least as the protested checks. But suppose these notes should be depreciated only a little below the value of silver; is it proposed that they should be offered to the public creditors, if they will receive them? What is meant when it is said that the officers of the government may pay its creditors in treasury-notes, if they will voluntarily receive them? What is the alter-

native? Are the gold and silver held in one hand, and the treasury-notes in the other? On the contrary, is it not a sort of forced payment, not as good as is required by law? All know there is no choice. The men who labor in the streets of this city, on the public works, or who furnish the bricks and stones, will come for their pay, and they will be offered treasury-notes, and asked if they are willing to take them. But will there be gold and silver in the other hand? No; nothing but the treasury-notes, and they will be asked if they were willing to take them; and then, if they should take them, that is called voluntary reception.

Now, it is evident that in such a case the only choice is between treasury-notes, on the one hand, and something worse, or nothing at all, on the other. No man can be supposed to receive voluntarily any thing of less value than that which he is legally entitled to. The reception of such inferior medium is always the result of force or necessity, either greater or smaller. Neither the justice nor the dignity of the government can ever allow of such a course. If treasury-notes are offered to the public creditor, there ought to be an actual choice afforded between them and the specie. And especially, with what an aspect could this government offer such payment, at the very moment when, with a stern countenance and an iron hand, it is demanding of its creditors metallic money for every dollar of its dues? Is it not now the law, that no officer of the government shall offer the public creditor any thing less in value than specie? I am of opinion, therefore, that the notes proposed by the committee are better than those recommended by the Secretary. I am in favor of that system which will not force the public creditor to make a selection between paper and nothing.

In reply to Mr. Buchanan, Mr. Webster, having obtained and examined the act of 1815, said: —

The honorable member from Pennsylvania has been kind enough to say, that I do not often get into difficulties in debate, and that when I do, I generally extricate myself better than I have done on the present occasion. He partakes in the supposed triumph of his friend from New York,* in having proved me

* Mr. Wright.

incorrect when I said that this government had never issued such paper money as the Secretary has now recommended. Now, Sir, although I am pleased to see the happiness which the gentleman enjoys, yet I believe I must dash it a little. Most assuredly, Sir, it authorizes no such paper as is now proposed. I was persuaded it could not, as I have a pretty good recollection of the proceedings of Congress on such subjects at that time.

The law of 1815 authorized the issue of two classes of treasury-notes; — 1st. Such as bore no interest, but which, the very hour they were issued, might be funded in a seven per cent. stock, to be redeemed like other stocks of the government; 2d. Treasury-notes bearing an interest of five and two fifths per cent., capable of being funded in like manner in a six per cent. stock. These stocks were to be issued on application by any commissioner of the revenue in any State. Now, what comparison is there between either of these classes of treasury-notes and those recommended by the Secretary, which bear no interest, and for which no time of redemption is provided?

I affirm again, therefore, Sir, all that I have said, namely, that the notes recommended by the treasury are regular paper issues, like the old emissions of Congress and the States before the adoption of the present Constitution, and that no precedent has been found for them, and I am sure none can be found, in the practice of this government.

THE CURRENCY.*

In the month of May, 1837, an almost simultaneous suspension of specie payments on the part of the banks took place throughout the country. The public funds having, since their removal from the Bank of the United States, in 1833, been kept on deposit with certain State banks selected for that purpose, the general suspension of specie payments by all the banks was productive of immediate embarrassment to the treasury. A proclamation was forthwith issued by the President, calling an extra session of Congress for the 4th of September next following.

On the meeting of Congress, the disordered state of the public finances was laid before the two houses in the message of the President and the report of the Secretary of the Treasury. In accordance with their recommendation, a law was passed to suspend the payment to the States of the fourth instalment of the surplus revenue. This measure forms the subject of the preceding speech. In further conformity to the executive recommendation, a bill was introduced into the Senate, by Mr. Wright of New York, from the Committee on Finance, "imposing additional duties as depositaries in certain cases, on public officers," to which bill an amendment was moved by Mr. Calhoun, providing for the repeal, to take effect gradually, of the resolution of the 30th April, 1816, so far as that resolution authorized the receipt of notes of specie-paying banks in payment of public dues. This amendment and the bill as amended passed the Senate, but failed in the House of Representatives. During the pendency of the amendment, Mr. Webster addressed the Senate on the general question raised by the bill and amendment, as follows: —

Mr. President, — I am opposed to the doctrines of the message, to the bill, and to the amendment of the member from

* A Speech delivered in the Senate of the United States, on the 28th of September, 1837, on the Currency, and on the new Plan for collecting and keeping the Public Moneys.

South Carolina.* In all these, I see nothing for the relief of the country; but I do see, as I think, a question involved, the importance of which transcends all the interest of the present occasion. It is my purpose to state that question; to present it, as well to the country as to the Senate; to show the length and breadth of it, as a question of practical politics, and in its bearing on the powers of the government; to exhibit its importance, and to express my own opinions in regard to it. A short recital of events and occurrences will show how this question has arisen.

The government of the United States completed the forty-eighth year of its existence, under the present Constitution, on the third day of March last. During this whole period, it has felt itself bound to take proper care of the currency of the country; and no administration has admitted this obligation more clearly or more frequently than the last. For the fulfilment of this acknowledged duty, as well as to accomplish other useful purposes, a national bank has been maintained for forty out of these forty-eight years. Two institutions of this kind have been created by law; one commencing in 1791, and being limited to twenty years, expiring in 1811; the other commencing in 1816, with a like term of duration, and ending, therefore, in 1836. Both these institutions, each in its time, accomplished their purpose, so far as currency was concerned, to the general satisfaction of the country. Before the last bank expired, it had the misfortune to incur the enmity of the late administration. I need not, at present, speak of the causes of this hostility. My purpose only requires a statement of that fact, as an important one in the chain of occurrences. The late President's † dissatisfaction with the bank was intimated in his first annual message, that is to say, in 1829. But the bank stood very well with the country, the President's known and growing hostility notwithstanding; and in 1832, four years before its charter was to expire, both houses of Congress passed a bill for its continuance, there being in its favor a large majority of the Senate, and a larger majority of the House of Representatives. The bill, however, was negatived by the President. In 1833, by an order of the President, the public moneys were removed from the custody

* Mr. Calhoun. † General Jackson.

of the bank, and were deposited with certain selected State banks. This removal was accompanied with the most confident declarations and assurances, put forth in every form, by the President and the Secretary of the Treasury, that these State banks would not only prove safe depositaries of the public money, but that they would also furnish the country with as good a currency as it ever had enjoyed, and probably a better; and would also accomplish all that could be wished in regard to domestic exchanges. The substitution of State banks for a national institution, for the discharge of these duties, was that operation which has become known, and is likely to be long remembered, as the "Experiment."

For some years, all was said to go on extremely well, although it seemed plain enough to a great part of the community that the system was radically vicious; that its operations were all inconvenient, clumsy, and wholly inadequate to the proposed ends; and that, sooner or later, there must be an explosion. The administration, however, adhered to its experiment. The more it was complained of by the people, the louder it was praised by the administration. Its commendation was one of the standing topics of all official communications; and in his last message, in December, 1836, the late President was more than usually emphatic upon the great success of his attempts to improve the currency, and the happy results of the experiment upon the important business of exchange.

But a reverse was at hand. The ripening glories of the experiment were soon to meet a dreadful blighting. In the early part of May last, these banks all stopped payment. This event, of course, produced great distress in the country, and it produced also singular embarrassment to the administration. The present administration was then only two months old; but it had already become formally pledged to maintain the policy of that which had gone before it. The President* had avowed his purpose of treading in the footsteps of his predecessor. Here, then, was difficulty. Here was a political knot, to be either untied or cut. The experiment had failed, and failed, as it was thought, so utterly and hopelessly that it could not be tried again.

* Mr. Van Buren.

What, then, was to be done? Committed against a Bank of the United States in the strongest manner, and the substitute, from which so much was expected, having disappointed all hopes, what was the administration to do? Two distinct classes of duties had been performed, in times past, by the Bank of the United States; one more immediately to the government, the other to the community. The first was the safe-keeping and the transfer, when required, of the public moneys; the other, the supplying of a sound and convenient paper currency, of equal credit all over the country, and everywhere equivalent to specie, and the giving of most important facilities to the operations of exchange. These objects were highly important, and their perfect accomplishment by the "experiment" had been promised, from the first. The State banks, it was declared, could perform all these duties, and should perform them. But the "experiment" came to a dishonored end in the early part of last May. The deposit banks, with the others, stopped payment. They could not render back the deposits; and so far from being able to furnish a general currency, or to assist exchanges, (purposes, indeed, which they never had fulfilled with any success,) their paper became immediately depreciated, even in its local circulation. What course, then, was the administration now to adopt? Why, Sir, it is plain that it had but one alternative. It must either return to the former practice of the government, take the currency into its own hands, and maintain it, as well as provide for the safe-keeping of the public money by some institution of its own; or else, adopting some new mode of merely keeping the public money, it must abandon all further care over currency and exchange. One of these courses became inevitable. The administration had no other choice. The State banks could be no longer tried, with the opinion which the administration now entertained of them; and how else could any thing be done to maintain the currency? In no way, but by the establishment of a national institution.

There was no escape from this dilemma. One course was, to go back to that which the party had so much condemned; the other, to give up the whole duty, and leave the currency to its fate. Between these two, the administration found itself absolutely obliged to decide; and it has decided, and decided boldly. It has decided to surrender the duty, and abandon the Consti-

tution. That decision is before us, in the message, and in the measures now under consideration. The choice has been made; and that choice, in my opinion, raises a question of the utmost importance to the people of this country, both for the present and all future time. That question is, WHETHER CONGRESS HAS, OR OUGHT TO HAVE, ANY DUTY TO PERFORM IN RELATION TO THE CURRENCY OF THE COUNTRY, BEYOND THE MERE REGULATION OF THE GOLD AND SILVER COIN.

Mr. President, the honorable member from South Carolina remarked, the other day, with great frankness and good humor, that, in the political classifications of the times, he desired to be considered as nothing but an honest nullifier. That, he said, was his character. I believe, Sir, the country will readily concede that character to the honorable gentleman. For one, certainly, I am willing to say that I believe him a very honest and a very sincere nullifier, using the term in the same sense in which he used it himself, and in which he meant to apply it to himself. And I am very much afraid, Sir, that (whatever he may think of it himself) it has been under the influence of those sentiments which belong to his character as a nullifier, that he has so readily and so zealously embraced the doctrines of the President's message. In my opinion, the message, the bill before us, and the honorable member's amendment form, together, a system, a code of practical politics, the direct tendency of which is to nullify and expunge, or perhaps, more correctly speaking, by a united and mixed process of nullification and expunging, to abolish, a highly important and useful power of the government. It strikes down the principle upon which the government has been administered in regard to the subject of the currency, through its whole history; and it seeks to obliterate, or to draw black lines around, that part of the Constitution on which this principle of administration has rested. The system proposed, in my opinion, is not only anti-commercial, but anti-constitutional also, and anti-union, in a high degree.

You will say, Sir, that this is a strong way of stating an opinion. It is so. I mean to state the opinion in the strongest manner. I do not wish, indeed, at every turn, to say, of measures which I oppose, that they either violate or surrender the Constitution. But when in all soberness and candor I do so think, in all soberness and candor I must so speak; and whether

the opinion which I have now expressed be true, let the sequel decide.

Now, Sir, Congress has been called together in a moment of great difficulty. The characteristic of the crisis is commercial distress. We are not suffering from war, or pestilence, or famine; and it is alleged by the President and Secretary that there is no want of revenue. Our means, it is averred, are abundant. And yet the government is in distress, and the country is in distress; and Congress is assembled, by a call of the President, to provide relief. The immediate and direct cause of all is derangement of the currency and the exchanges; commercial credit is gone, and property no longer answers the common ends and purposes of property. Government cannot use its own means, and individuals are alike unable to command their own resources. The operations both of government and people are obstructed; and they are obstructed because the money of the country, the great instrument of commerce and exchange, has become disordered and useless. The government has funds, that is to say, it has credits in the banks, but it cannot turn these credits into cash; and individual citizens are as bad off as government. The government is a great creditor and a great debtor. It collects and it disburses large sums. In the loss, therefore, of a proper medium of payment and receipt, government is a sufferer. But the people are sufferers from the same cause; and inasmuch as the whole amount of payments and receipts by the people, in their individual transactions, is many times greater than the amount of payments and receipts by government, the aggregate of evil suffered by the people is also many times greater than that suffered by government. Individuals have means as ample, in proportion to their wants, as government; but they share with government the common calamity arising from the overthrow of the currency. The honorable member from Mississippi * has stated, or has quoted the statement from others, that while the payments and receipts of government are twenty millions a year, the payments and receipts of individuals are two or three hundred millions. He has, I think, underrated the amount of individual payments and receipts. But even if he has not, the statement shows how small

* Mr. Walker.

a part of the whole evil falls on government. The great burden of suffering is on the people.

Now, Sir, when we look at the message, the bill, and the proposed amendment, their single, exclusive, and undivided object is found to be *relief to the government.* Not one single provision is adopted, or recommended, with direct reference to the relief of the people. They all speak of revenue, of finance, of duties and customs, of taxes and collections; and the evils which the people suffer by the derangement of the currency and the exchanges, and the breaking up of commercial credit, instead of being put forth as prominent and leading objects of regard, are dismissed with a slight intimation, here and there, that, in providing for the superior and paramount interests of government, some incidental or collateral benefits may, perhaps, accrue to the community. But is government, I ask, to care for nothing but itself? Is self-preservation the great end of government? Has it no trust powers? Does it owe no duties, but to itself? If it keeps itself in being, does it fulfil all the objects of its creation? I think not. I think government exists, not for its own ends, but for the public utility. It is an agency established to promote the common good, by common counsels; its chief duties are to the people; and it seems to me strange and preposterous, in a moment of great and general distress, that government should confine all its deliberations to the single object of its own revenues, its own convenience, its own undisturbed administration.

I cannot say, Sir, that I was surprised to see this general character impressed on the face of the message. I confess it appeared to me, when the banks stopped payment, that the administration had come to a pass in which it was unavoidable that it should take some such course. But that necessity was imposed, not by the nature of the crisis, but by its own commitment to the line of politics which the preceding administration had adopted, and which it had pledged itself to pursue. It withdraws its care from the currency, because it has left itself no means of performing its own duties, connected with that subject. It has, voluntarily and on calculation, discarded and renounced the policy which has been approved for half a century, because it could not return to that policy without admitting its own inconsistency and violating its party pledges. This is the truth of the whole matter.

Now, Sir, my present purpose is chiefly to maintain two propositions; —

I. That it is the constitutional duty of this government to see that a proper currency, suitable to the circumstances of the times, and to the wants of trade and business, as well as to the payment of debts due to government, be maintained and preserved; a currency of general credit, and capable of aiding the operations of exchange, so far as those operations may be conducted by means of the circulating medium; and that there are duties, therefore, devolving on Congress, in relation to currency, beyond the mere regulation of the gold and silver coins:

II. That the message, the bill, and the proposed amendment, all, in effect, deny any such duty, disclaim all such power, and confine the constitutional obligation of government to the mere regulation of the coin, and the care of its own revenues.

I have well weighed, Mr. President, and fully considered, the first of these propositions; to wit, that which respects the duty of this government in regard to the currency. I mean to stand by it. It expresses, in my judgment, a principle fully sustained by the Constitution, and by the usage of the government, and which is of the highest practical importance. With this proposition, or this principle, I am willing to stand connected, and to share in the judgment which the community shall ultimately pronounce upon it. If the country shall sustain it, and be ready in due time to carry it into effect by such means and instruments as the general opinion shall think best to adopt, I shall coöperate, cheerfully, in any such undertaking; and shall look again, with confidence, to prosperity in this branch of our national concerns. On the other hand, if the country shall reject this proposition, and act on that rejection; if it shall decide that Congress has no power, and is under no duty, in relation to the currency, beyond the mere regulation of the coins; then, upon that construction of the powers and duties of Congress, I am willing to acknowledge that I do not feel myself competent to render any substantial service to the public counsels on these great interests. I admit, at once, that if the currency is not to be preserved by the government of the United States, I know not how it is to be guarded against constantly occurring disorders and derangements.

Before entering into the discussion of the grounds of this

proposition, however, allow me, Sir, a few words by way of preliminary explanation. In the first place, I wish it to be observed, that I am now contending only for the general principle, and not insisting either on the constitutionality or expediency of any particular means or any particular agent. I am not saying by what instrument or agent Congress ought to perform this duty; I only say it is a duty, which, in some mode and by some means, Congress is bound to perform. In the next place, let it be remembered that I carry the absolute duty of government in regard to exchange no farther than the operations of exchange may be performed by currency. No doubt, Sir, a proper institution, established by government, might, as heretofore, give other facilities to exchange, of great importance and to a very great extent. But I intend, on this occasion, to keep clearly within the Constitution, and to assign no duty to Congress not plainly enjoined by the provisions of that instrument, as fairly interpreted, and as heretofore understood.

The President says, it is not the province of government to aid individuals in the transfer of their funds otherwise than by the use of the post-office; and that it might as justly be called on to provide for the transportation of their merchandise. Now, I beg leave to say, Sir, with all respect and deference, that funds are transferred from individual to individual usually for the direct purpose of the payment and receipt of debts; that payment and receipt are duties of currency; that, in my opinion, currency is a thing which government is bound to provide for and superintend; that the case, therefore, has not the slightest resemblance to the transportation of merchandise, because the transportation of merchandise is carried on by ships and boats, by carts and wagons, and not by the use of currency, or any thing else over which government has usually exclusive control. These things individuals can provide for themselves. But the transfer of funds is done by credit, and must be so done; and some proper medium for this transfer it is the duty of government to provide, because it belongs to currency, to money, and is therefore beyond the power of individuals.

The nature of exchange, Sir, is well understood by persons engaged in commerce; but as its operations are a little out of the sight of other classes of the community, although they have all a deep and permanent interest in the subject, I may be

pardoned for a word or two of general explanation. I speak of domestic exchanges only. We mean, then, by exchange, this same transfer of funds. We mean the making of payment in a distant place, or the receiving of payment from a distant place, by some mode of paper credits. If done by draft, order, or bill of exchange, that is one form; if done by the transmission of bank-notes, through the post-office or otherwise, that is another form. In each, credit is used; in the first, the credit of the parties whose names are on the bill or draft; in the last, the credit of the bank. Every man, Sir, who looks over this vast country, and contemplates the commercial connection of its various parts, must see the great importance that this exchange should be cheap and easy. To the producer and to the consumer, to the manufacturer and the planter, to the merchant, to all, in all classes, this is a matter of moment. We may see an instance in the common articles of manufacture produced in the North and sent to the South and West for sale and consumption. Hats, shoes, furniture, carriages, domestic hardware, and various other articles, the produce of those manufactures, and of employments carried on without the aid of large capital, constitute a large part of this trade, as well as the fabrics of cotton and wool. Now, a state of exchange which shall enable the producers to receive payment regularly, and without loss, is indispensable to any useful prosecution of this intercourse. Derangement of currency and exchange is ruinous. The notes of local banks will not answer the purpose of remittance; and if bills of exchange cannot be had, or can be had only at a high rate, how is payment to be received, or to be received without great loss? This evil was severely felt, even before the suspension of specie payment by the banks; and it will always be felt, more or less, till there is a currency of general credit and circulation through the country. But when the banks suspended, it became overwhelming. All gentlemen in other parts of the country having Northern acquaintance must know the existence of this evil. I have heard it said that the hitherto prosperous and flourishing town of Newark has already lost a considerable part of its population by the breaking up of its business in consequence of these commercial embarrassments. And in cases in which business is not wholly broken up, if five or six per cent. or more is to be paid for exchange, it by so much enhances the cost to the

consumer, or takes away his profit from the producer. I have mentioned these articles of common product of Northern labor; but the same evil exists in all the sales of imported goods; and it must exist, also, in the South, in the operations connected with its great staples. The South must have, and has, constant occasion for remittance by exchange; and no part of the country is likely to suffer more severely by its derangement. In short, there can be no satisfactory state of internal trade, when there is neither cheapness, nor promptness, nor regularity, nor security, in the domestic exchanges.

I say again, Sir, that I do not hold government bound to provide bills of exchange for purchase and sale. Nobody thinks of such a thing. If any institution established by government can do this, as might be the case, and has been the case, so much the better. But the positive obligation of government I am content to limit to currency, and, so far as exchange is concerned, to the aid which may be afforded to exchange by currency. I have been informed, that, a few years ago, before the charter of the late bank expired, at those seasons of the year when Southern and Western merchants usually visit the Northern cities to make purchases, or make payment of existing liabilities, that bank redeemed its notes to the amount of fifty or even a hundred thousand dollars a day. These notes, having been issued in the West, were brought over the mountains, as funds to be used in the Eastern cities. This was exchange; and it was exchange through the medium of currency; it was perfectly safe, and it cost nothing. This fact illustrates the importance of a currency of universal credit to the business of exchange.

Having made these remarks, for the purpose of explaining exchange, and showing its connection with currency, I proceed to discuss the general propositions.

Is it the duty, then, of this government, to see that a currency is maintained, suited to the circumstances of the times, and to the uses of trade and commerce?

I need not, Sir, on this occasion, enter historically into the well-known causes which led to the adoption of the present Constitution. Those causes are familiar to all public men; and among them, certainly, was this very matter of giving credit and uniformity to the money system of the country. The States

possessed no system of money and circulation; and that was among the causes of the stagnation of commerce. Indeed, all commercial affairs were in a disjointed, deranged, and miserable state. The restoration of commerce, the object of giving it uniformity, credit, and national character, were among the first incentives to a more perfect union of the States. We all know that the meeting at Annapolis, in 1786, sprang from a desire to attempt something which would give uniformity to the commercial operations of the several States; and that in and with this meeting arose the proposition for a general convention, to consider of a new constitution of government. Everywhere, State currencies were depreciated, and Continental money was depreciated also. Debts could not be paid, and there was no value to property. From the close of the war to the time of the adoption of this Constitution, as I verily believe, the people suffered as much, except in the loss of life, from the disordered state of the currency and the prostration of commerce and business, as they suffered during the war. All our history shows the disasters and afflictions which sprang from these sources; and it would be waste of time to go into a detailed recital of them. For the remedy of these evils, as one of its great objects, and as great as any one, the Constitution was formed and adopted.

Now, Sir, by this Constitution, Congress is authorized to "coin money, to regulate the value thereof, and of foreign coins"; and all the States are prohibited from coining money, and from making any thing but gold and silver coins a tender in payment of debts. Suppose the Constitution had stopped here, it would still have established the all-important point of a uniform money system. By this provision Congress is to furnish coin, or regulate coin, for all the States. There is to be but one money-standard for the country. And the standard of value to be established by Congress is to be a currency, and not bullion merely; because we find it is to be *coin;* that is, it is to be one or the other of the precious metals, bearing an authentic stamp of value, and passing therefore by tale. That is to be the standard of value. A standard of value, therefore, and a money for circulation, were thus expressly provided for. And if nothing else had been done, would it not have been a reasonable and necessary inference from this power, that Congress had authority to regulate, and must regulate and control, any and all paper,

which either States or individuals might desire to put into circulation, purporting to represent this coin, and to take its place, in the uses of trade and commerce? It is very evident that the Constitution intended something more than to provide a medium for the payment of debts to government. The object was a uniform currency for the use of the whole people, in all the transactions of life; and it was manifestly the intent of the Constitution, that the power to maintain such a currency should be given to Congress. But it would make the system incongruous and incomplete; it would be denying to Congress the means necessary to accomplish ends which were manifestly intended; it would render the whole provision in a great measure nugatory, if, when Congress had established a coin for currency and circulation, it should have no power to maintain it as an actual circulation, nor to regulate or control paper emissions designed to occupy its place, and perform the same functions that it would on the coinage power alone. On a fair, and just, and reasonable inference from it, therefore, I should be of opinion that Congress was authorized, and was bound, to protect the community against all evils which might threaten it from a deluge of currency of another kind, filling up, in point of fact, all the channels of circulation. And this opinion is not new. It has often been expressed before, and was cogently urged by Mr. Dallas, the Secretary of the Treasury, in his report in 1816. He says, "Whenever the emergency occurs that demands a change of system, it seems necessarily to follow, that the authority which was alone competent to establish the national coin is alone competent to create a national substitute."

But the Constitution does not stop with this grant of the coinage power to Congress. It expressly prohibits the States from issuing *bills of credit*. What a bill of credit is there can be no difficulty in understanding, by any one acquainted with the history of the country. They had been issued, at different times, and in various forms, by the State governments. The object of them was to create a paper circulation; paper issued on the credit of the State, and intended for from hand to hand, is a bill of credit, debts or not, or whether carrying int intent that it shall circulate as m th intent that it shall so circul

is, it is a bill of credit. The States, therefore, are prohibited from issuing paper for circulation, on their own credit; and this provision furnishes additional and strong proof, that all circulation, whether of coin or paper, was intended to be subject to the regulation and control of Congress. Indeed, the very object of establishing one commerce for all the States, and one money for all the States, would otherwise be liable to be completely defeated. It has been supposed, nevertheless, that this prohibition on the States has not restrained them from granting to individuals, or to private corporations, the power of issuing notes for circulation on their own credit. This power has long been exercised, and is admitted to exist. But could it be reasonably maintained, looking only to these two provisions, (that is to say, to the coinage power, which is vested exclusively in Congress, and to the prohibition on the States against issuing their own paper for circulation,) that Congress could not protect its own power, and secure to the people the full benefits intended by and for them against evils and mischiefs, if they should arise, or threaten to arise, not from paper issued by States, but from paper issued by individuals or private corporations? If this be so, then the coinage power evidently fails of a great part of its intended effect; and the evils intended to be prevented by the prohibitions on the States may all arise, and become irresistible and overwhelming in another form.

But the message intimates a doubt whether this power over the coin was given to Congress to preserve the people from the evils of paper money, or only given to protect the government itself. I cannot but think this very remarkable and very strange. The language of the President is, "There can be no doubt that those who framed and adopted the Constitution, having in immediate view the depreciated paper of the Confederacy, of which five hundred dollars in paper were at times equal to only one dollar in coin, intended to prevent the recurrence of similar evils, so far at least as related to the transactions of the new government." Where is the foundation for the *qualification* here expressed? On what clause, or construction of any clause, is it founded? Will any gentleman tell me what there is in the Constitution which led the President, or which could lead any man, to doubt whether it was the purpose of that instrument to protect the people, as well as the government, against the over-

whelming evils of paper money? Is there a word or particle in the coinage power, or any other power, which countenances the notion that the Constitution intended that there should be one money for the government, and another for the people; that government should have the means of protecting its own revenues against depreciated paper, but should be still at liberty to suffer all the evils of such paper to fall with full weight upon the people? This is altogether a new doubt. It intimates an opinion, which, so far as it shall find those who are ready to adopt and follow it, will sap and undermine one of the most indispensable powers of the government. The coinage power is given to Congress in general terms; it is altogether denied to the States; and the States are prohibited from issuing bills of credit for any purpose whatever, or of any character whatever. Can any man hesitate one moment to say, that these provisions are all intended for the general good of the people? I am therefore surprised at the language of the message in this particular, and utterly at a loss to know what should have led to it, except the apparent and foregone conclusion and purpose of attempting to justify Congress in the course which was about to be recommended to it, of abstaining altogether from every endeavor to improve or maintain the currency, except so far as the receipts and payments of the government itself are concerned. I repeat, Sir, that I should be obliged to any friend of the administration, who would suggest to me on what ground this doubt, never expressed before, and now so solemnly and gravely intimated, is supposed to stand. Is it indeed uncertain, is it matter of grave and solemn doubt, whether the coinage power itself, so fully granted to Congress, and so carefully guarded by restraints upon the States, had any further object than to enable Congress to furnish a medium in which taxes might be collected?

But this power over the coinage is not the strongest, nor the broadest, ground on which to place the duty of Congress. There is another power granted to Congress, which seems to me to apply to this case directly and irresistibly, and that is the commercial power. The Constitution declares that Congress shall have power to regulate commerce, not only with foreign nations, *but between the States.* This is a full and complete grant, and must include authority over every thing which is part of com-

merce, or essential to commerce. And is not money essential to commerce? No man in his senses can deny that; and it is equally clear, that whatever paper is put forth, with intent to circulate as currency, or to be used as money, immediately affects commerce. Bank-notes, in a strict and technical sense, are not, indeed, money; but in a general sense, and often in a legal sense, they are money. They are substantially money, because they perform the functions of money. They are not, like bills of exchange or common promissory notes, mere proofs or evidences of debt, but are treated as money, in the general transactions of society. If receipts be given for them, they are given as for money. They pass under a legacy, or other form of gift, as money. And this character of bank-notes was as well known and understood at the time of the adoption of the Constitution as it is now. The law, both of England and America, regarded them as money, in the sense above expressed. If Congress, then, has power to regulate commerce, it must have a control over that money, whatever it may be, by which commerce is actually carried on. Whether that money be coin or paper, or however it has acquired the character of money or currency, if, in fact, it has become an actual agent or instrument in the performance of commercial transactions, it necessarily thereby becomes subject to the regulation and control of Congress. The regulation of money is not so much an inference from the commercial power conferred on Congress, as it is a part of it. Money is one of the things, without which, in modern times, we can form no practical idea of commerce. It is embraced, therefore, necessarily, in the terms of the Constitution.

But, Sir, as will be seen by the proposition which I have stated, I go further; I insist that the duty of Congress is commensurate with its power; that it has authority not only to regulate and control that which others may put forth as money and currency, but that it has the power, and is bound to perform the duty, of seeing that there is established and maintained, at all times, a currency of general credit, equivalent in value to specie, adapted to the wants of commerce and the business of the people, and suited to the existing circumstances of the country. Such a currency is an instrument of the first necessity to commerce, according to the commercial system of

the present age; and without it commerce cannot be conducted to full advantage. It is in the power of Congress to furnish it, and it is in the power of nobody else. The States cannot supply it. That resource has often been tried, and has always failed. I am no enemy to the State banks; they may be very useful in their spheres; but you can no more cause them to perform the duties of a national institution, than you can turn a satellite into a primary orb. They cannot maintain a currency of equal credit all over the country. It might be tried, Sir, in your State of Kentucky, or our State of Massachusetts. We may erect banks on all the securities which the wit of man can devise; we may have capital, we may have funds, we may have bonds and mortgages, we may add the faith of the State, we may pile Pelion upon Ossa; they will be State institutions after all, and will not be able to support a national circulation. This is inherent in the nature of things, and in the sentiments of men. It is in vain to argue that it ought not to be so, or to contend that one bank may be as safe as another. Experience proves that it is so, and we may be assured it will remain so.

Sir, mine is not the ruthless hand that shall strike at the State banks, nor mine the tongue that shall causelessly upbraid them with treachery or perfidy. I admit their lawful existence; I admit their utility in the circle to which they properly belong. I only say, they cannot perform a national part in the operations of commerce. A general and universally accredited currency, therefore, is an instrument of commerce, which is necessary to the enjoyment of its just advantages, or, in other words, which is essential to its beneficial regulation. Congress has power to establish it, and no other power can establish it; and therefore Congress is bound to exercise its own power. It is an absurdity, on the very face of the proposition, to allege that Congress shall regulate commerce, but shall, nevertheless, abandon to others the duty of maintaining and regulating its essential means and instruments. We have in actual use a mixed currency; the coin circulating under the authority of Congress, the paper under the authority of the States. But this paper, though it fills so great a portion of all the channels of circulation, is not of general and universal credit; it is made up of various local currencies, none of which has the same credit, or the same value, in all parts of the country; and therefore these local currencies

answer but very loosely and imperfectly the purposes of general currency and of remittance. Now, is it to be contended that there is no remedy for this? Are we to agree, that the Constitution, with all its care, circumspection, and wisdom, has, nevertheless, left this great interest unprovided for? Is our commercial system so lame and impotent? Are our constitutional provisions and our political institutions so radically defective? I think not, Sir. They do not deserve this reproach; and I think it may now be easily shown, that, under all administrations, from General Washington's time down to the 3d of March last, the government has felt and acknowledged its obligation, in regard to the currency, to the full extent in which I have stated it, and has constantly endeavored to fulfil that obligation. Allow me to go back to the beginning, and trace this matter down to our times, a little in detail.

In his first speech to Congress, in 1789, having just then assumed his new office, General Washington recommended no particular subjects to the consideration of Congress; but in his speech at the opening of the second session, he suggested the importance of a uniform currency, without distinguishing coinage from paper; and this body, in its answer, assured him that it was a subject which should receive its attention. Recollect, Sir, that at that time there were State banks having notes in circulation, though they were very few. The first Bank of the United States was established at the third session of the Congress, in 1791. The bill for its creation originated in the Senate; the debates in which were at that time not public. We have, however, the debates in the House, we have the reports of the Secretaries, and we have the law itself. Let us endeavor to learn, from these sources, for what objects this institution was created, and whether a national currency was one of those objects.

Certainly, Sir, it must be admitted that currency was not the only object in incorporating the bank of 1791. The government was new; its fiscal affairs were not well arranged; it was greatly in debt; and the political state of things at the time rendered it highly probable that sudden occasions for making loans would arise. That it might assist the operations of the treasury, therefore, and that it might make those loans to government, if pressing occasions should arise, were two of the pur-

poses had in view in establishing the bank. But it is equally clear that there was a third purpose, and that respected commerce and currency. To furnish a currency for general circulation, and to aid exchange, was, demonstrably, a clear, distinct, and avowed object in the creation of the first bank.

On the 13th of December, 1790, the Secretary of the Treasury made a report to the House of Representatives, recommending a national bank. In this report he set forth the advantages of such an institution; one of these advantages, he says, consists "in increasing the quantity of circulating medium, and quickening the circulation." And he then proceeds to observe: "This last may require some illustration. When payments are to be made between different places, having an intercourse of business with each other, if there happen to be no private bills at market, and there are no bank-notes which have a currency in both, the consequence is, that coin must be remitted. This is attended with trouble, delay, expense, and risk. If, on the contrary, there are bank-notes current in both places, the transmission of these by the post, or any other speedy or convenient conveyance, answers the purpose; and these again, in the alternations of demand, are frequently returned, very soon after, to the place whence they were first sent; whence the transportation and retransportation of the metals are obviated, and a more convenient and a more expeditious medium of payment is substituted."

Is not this clear proof, that one object in establishing the bank, in the opinion of the Secretary, was the creation of a currency which should have general credit throughout the country, and, by means of such credit, should become a convenient and expeditious medium of exchange? Currency, Sir, currency and exchange, were then, beyond all doubt, important objects, in the opinion of the proposer of the measure, to be accomplished by the institution. The debates which took place in the House of Representatives confirm the same idea. Mr. Madison, who objected to the bill on constitutional grounds, admitted, nevertheless, that one of the advantages of a bank consists "in facilitating occasional remittances from different places where notes happen to circulate"; and Mr. Ames, who was one of the most distinguished friends of the measure, and who represented a commercial district, enlarged on the great benefit of

the proposed institution to commerce. He insisted that the intercourse between the States could never be on a good footing, without an institution whose paper would circulate more extensively than that of any State bank; and what he saw in the future we have seen in the past, and feel in the present. Other gentlemen, also, contended that some such institution was necessary, in order to enable Congress to regulate the commerce of the country, and, for that reason, that it would be constitutional, as being proper means to a lawful end.

When the bill had passed the two houses, the President, as we all know, asked the opinion of his cabinet upon its constitutionality. The Secretary of State and the Attorney-General were against it; the Secretary of the Treasury was in favor of it; and among the grounds on which he placed the right of Congress to pass the law was its adaptation to the exercise of the commercial power, conferred by the Constitution on Congress. His language is: "The institution of a bank has, also, a natural relation to the regulation of trade between the States, in so far as it is conducive to the creation of a convenient medium of exchange between them, and to the keeping up a full circulation, by preventing the frequent displacement of the metals in reciprocal remittances. Money is the very hinge on which commerce turns. And this does not mean merely gold and silver; many other things have served the purpose, with different degrees of utility. Paper has been extensively employed. It cannot, therefore, be admitted, with the Attorney-General, that the regulation of trade between the States, as it concerns the medium of circulation and exchange, ought to be considered as confined to coin." "And it is," he adds, "in reference to these general relations of commerce, that an establishment which furnishes facilities to circulation, and a convenient medium of exchange and alienation, is to be regarded as a regulation of trade."

Nothing can be plainer, Sir, than this language; and therefore nothing is more certain than that those who recommended and supported the first bank regarded it as a fit and necessary measure, in order to enable Congress to exercise its important duty of regulating commerce, and to fulfil, especially, that part of the duty which enjoins upon it the provision of a proper and suitable currency for circulation and exchange.

But it is not necessary to rely on these opinions of individual friends of the measure. Let the act speak for itself. Let us look into it, and search its reasons on its own face. What are the grounds and objects of the law, as set forth in the law itself? The preamble tells us. It declares: —

"That the establishment of a bank" "will be very conducive to the successful conducting of the national finances; will tend to give facility to the obtaining of loans, for the use of the government, in sudden emergencies; *and will be productive of considerable advantages to trade and industry in general.*"

Trade and industry in general, therefore, constituted one distinct and definite object of the incorporation, if the law truly expounds its own purposes. It was not revenue alone; it was not the facility of making loans merely; it was not mere utility to government; but in addition to these it was commerce, it was the interests of the people, it was trade and business in general, which, among other considerations, formed an important part of the objects of the incorporation. And indeed, Sir, events proved that it was vastly the most important part of all. What else did the first bank do for the government of the country, at all to be compared, in the amount of benefit, to its influence on the currency and the exchanges? It is as clear as demonstration, therefore, that the government, in General Washington's time, did feel itself authorized by the Constitution, and bound in duty, to provide a safe currency, of general credit, for circulation and for exchange? It did provide such a currency. It is remarkable enough, so comparatively small was the mere object of keeping the public money, that no provision for that purpose was inserted in the charter; nor was there any law on the subject, so far as I remember, till the year 1800. The bank went into operation, and its success was great and instantaneous; and during the whole period of its existence there was no complaint of the state of the currency or the exchanges.

And now, Sir, let me ask, what was it that gave this success to the new institution? Its capital was small, and government had no participation in its direction; it was committed entirely to individual management and control.

Its notes, it is true, were made receivable in payments to government; that was one advantage. It had a solid capital, and its paper was at all times convertible into gold and silver, at the

will and pleasure of the holder; that was another and a most important ground of its prosperity. But, Sir, there was something more than all this. There was something which touched men's sentiments, as well as their understandings. There was a cause which carried the credit of the new-born bank, as on the wings of the wind, to every quarter and every extremity of the country. There was a charm, which created trust, and faith, and reliance, not only in the great marts of commerce, but in every corner into which money, in any form, could penetrate. That cause was its nationality of character. It had the broad seal of the Union to its charter. It was the institution of the nation, established by that new government which the people already loved; and it was known to be designed to revive and foster that commerce which had so long been prostrate and lifeless.

Mr. President, let it be borne in mind that I am not now arguing the constitutionality, or present expediency, of a Bank of the United States. My sentiments are already well known on that subject; and if they were not, the subject is not now before us. But I have adverted to the history of the first bank, and examined the grounds on which, and the purposes for which, it was established, in order to show the fact that this government, from the first, has acknowledged the important duty and obligation of providing for currency and exchange, as part of the necessary regulation of commerce. I do not mean, at present, to say that a bank is the only or the indispensable means by which this duty can and must be performed; although I certainly think it the best. Yet I will not set limits to the wisdom and sagacity of gentlemen, in the invention and adaptation of means. If they do not like a bank, let them try whatever they do like. If they know a better instrument or agent, let them use it. But I maintain that the performance of the duty by some means, or some instrument, or some agent, *is* indispensable; and that so long as it shall be neglected, so long the commerce and business of the country must suffer.

The history of the late Bank of the United States manifests, as clearly as that of the first, that the government, in creating it, was acting, avowedly, in execution of its duty in regard to the currency. Fiscal aid, except so far as the furnishing of a currency was concerned, was hardly thought of. Its bills were

made receivable for revenue, indeed; but that provision, as far as it went, was obviously a provision for currency. Currency for the revenue, however, was not the leading object. The leading object was currency for the country.

The condition of things at that time was very much like that which now exists. The revenue of the government was entirely adequate to all its wants; but its operations were all obstructed by the derangement of the currency, and the people suffered as much as the government. The banks, or most of them, had suspended specie payments. Their paper was depreciated, in various degrees; the exchanges were all disordered, and the commerce of the country thrown into confusion. Government and people were all rich; but with all their riches, they had no money. Both might apply to themselves what Addison, being a much readier writer than speaker, said of himself, when he observed, that although he could draw for a thousand pounds, he had not a guinea in his pocket.

Mr. Madison was then President of the United States. He had been one of the opposers of the first bank, on constitutional grounds, but he had yielded his own opinions to the general sentiment of the country, and to the consideration that the power had been established and exercised. He was not a man who carried his respect for himself, and his own opinions, so far as to overcome his respect for all other men's judgments. Wise men, Sir, are sometimes wise enough to surrender their own opinions, or at least to see that there is a time when questions must be considered as settled. Mr. Madison was one of these. In his annual message of the 5th of December, 1815, he says:—

"The arrangement of the finances, with a view to the receipts and expenditures of a permanent peace establishment, will necessarily enter into the deliberations of Congress during the present session. It is true, that the improved condition of the public revenue will not only afford the means of maintaining the faith of the government with its creditors inviolate, and of prosecuting successfully the measures of the most liberal policy, but will also justify an immediate alleviation of the burdens imposed by the necessities of the war. It is, however, essential to every modification of the finances, that the benefits of a uniform national currency should be restored to the community. The absence of the precious metals will, it is believed, be a temporary evil; but until they can again be rendered the general medium of exchange, it devolves on

the wisdom of Congress to provide a substitute, which shall equally engage the confidence and accommodate the wants of the citizens throughout the Union. If the operation of the State banks cannot produce this result, the probable operation of a national bank will merit consideration; and if neither of these expedients be deemed effectual, it may become necessary to ascertain the terms upon which the notes of the government (no longer required as an instrument of credit) shall be issued, upon motives of general policy, as a common medium of circulation."

Here, Sir, is the express recommendation to Congress to provide a "NATIONAL CURRENCY," a paper currency, a uniform currency, for the uses of the community, as a substitute for the precious metals, and as a medium of exchange. It devolves on Congress, says Mr. Madison, to provide such a substitute as shall engage the confidence and accommodate the wants of the citizens throughout the Union; and if the State banks cannot produce this result, a national bank will merit consideration. Can language be more explicit? Currency, national currency, currency for exchange, currency which shall accommodate all the people, is the great, and leading, and, I may add, the sole object of the recommendation.

Contrast now, Sir, this language, and these sentiments, with those of the message before us. Did Mr. Madison confine his recommendation to such measures of relief as might be useful to government merely? Did he look exclusively to the treasury? Did he content himself with suggesting a proper medium for the receipt of revenue, or a proper deposit for its safe-keeping? Far otherwise. His view was general, statesmanlike, and fitted to the exigency of the times. The existing evil was one which afflicted the whole country; and the remedy proposed by him was, as it should have been, commensurate with the whole evil. And, Sir, what a shock it would have produced at that time, if Mr. Madison, seeing the prostrate state of commerce and business all around him, had recommended to Congress to do nothing in the world but to take care that the taxes were collected, and those in the employment of government well paid!

Well, Sir, what was done with this message? The House of Representatives resolved, "that so much of the President's message as related to a uniform national currency should be referred to a select committee." Such a committee was raised, and the

honorable member from South Carolina* was placed at its head, as he well deserved to be, from his standing in the House, and his well-known opinions on this subject. The honorable member was thus at the head of a committee, appointed, not on the subject of a revenue currency, or a currency for government, but a UNIFORM NATIONAL CURRENCY; and, to effect the great object of this appointment, he brought in a bill for the establishment of a Bank of the United States.

As had been the case formerly, so on this occasion, the Secretary of the Treasury made a report on the subject. And now hear, Sir, what he says of the duty of Congress to provide a national currency, and of the objects which he proposes by the establishment of a national bank.

"The constitutional and legal foundation of the monetary system of the United States is thus distinctly seen; and the power of the federal government to institute and regulate it, whether the circulating medium consist of coin or of bills of credit, must, in its general policy, as well as in the terms of its investment, be deemed an exclusive power. It is true, that a system depending upon the agency of the precious metals will be affected by the various circumstances which diminish their quantity, or deteriorate their quality. The coin of a State sometimes vanishes under the influence of political alarms; sometimes in consequence of the explosion of mercantile speculations; and sometimes by the drain of an unfavorable course of trade. But whenever the emergency occurs that demands a change of system, it seems necessarily to follow, that the authority which was alone competent to establish the national coin is alone competent to create a national substitute. It has happened, however, that the coin of the United States has ceased to be the circulating medium of exchange, and that no substitute has hitherto been provided by the national authority. During the last year, the principal banks established south and west of New England resolved, that they would no longer issue coin in payment of their notes, or of the drafts of their customers for money received upon deposit. In this act the government of the United States had no participation; and yet the immediate effect of the act was to supersede the only legal currency of the nation. By this act, although no State can constitutionally emit bills of credit, corporations erected by the several States have been enabled to circulate a paper medium, subject to many of the practical inconveniences of the prohibited bills of credit. . . . . .

* Mr. Calhoun.

"Of the services rendered to the government by some of the State banks during the late war, and of the liberality by which some of them are actuated in their intercourse with the treasury, justice requires an explicit acknowledgment. It is a fact, however, incontestably proved, that those institutions cannot, at this time, be successfully employed to furnish a uniform national currency. The failure of one attempt to associate them, with that view, has already been stated. Another attempt, by their agency in circulating treasury-notes, to overcome the inequalities of the exchanges, has only been partially successful. And a plan recently proposed, with the design to curtail the issues of bank-notes, to fix the public confidence in the administration of the affairs of the banks, and to give to each bank a legitimate share in the circulation, is not likely to receive the general sanction of the banks. The truth is, that the charter restrictions of some of the banks, the mutual relation and dependence of the banks of the same State, and even of the banks of the different States, and the duty which the directors of each bank conceive they owe to their immediate constituents, upon points of security or emolument, interpose an insuperable obstacle to any voluntary arrangement, upon national considerations alone, for the establishment of a national medium through the agency of the State banks. . . . . .

"The establishment of a national bank is regarded as the best, and perhaps the only adequate resource, to relieve the country and the government from the present embarrassment. Authorized to issue notes, which will be received in all payments to the United States, the circulation of its issues will be coextensive with the Union; and there will exist a constant demand, bearing a just proportion to the annual amount of the duties and taxes to be collected, independent of the general circulation for commercial and social purposes. A national bank will, therefore, possess the means and the opportunity of supplying a circulating medium, of equal use and value in every State, and in every district of every State.

"The power of the government to supply and maintain a paper medium of exchange will not be questioned; but for the introduction of that medium, there must be an adequate motive. . . . . .

"Upon the whole, the state of the national currency, and other important considerations connected with the operations of the treasury, render it a duty respectfully to propose —

"That a national bank be established."

This language, it must be admitted, is explicit enough, both in regard to the power and the duty; and the whole report bears very little resemblance, most certainly, to the official paper from the Treasury Department now before us.

When the bill was called up, the honorable member from South Carolina explained its objects in an able speech. He showed the absolute necessity of a national currency; the power of Congress over such currency, whether metallic or paper; and the propriety and expediency of establishing a bank, as the best means of exercising these powers and fulfilling these duties. I agreed then, and I agree now, to the general sentiments expressed in that speech, heartily and entirely. I would refer to it, on this occasion, both as an able argument and a high authority; and beg to adopt it, as setting forth, in a strong light, the sentiments which I am now endeavoring to enforce.

Mr. Calhoun here rose to make an explanation. He said that he never saw the reporter's notes of his speech on that occasion, and therefore what he did say may not have been correctly reported. There were points of omission in that speech, which occupied a column and a half of the National Intelligencer. Mr. Calhoun said, that he took care then, as now, to fortify himself, and leave a road open to oppose, at any coming time, a national bank. He then said that he was opposed to a bank, but that he submitted to the necessity of the case. There was then a connection between the government and the banks; and if the government had a right to regulate the currency, there was no means of doing it but by a national bank. He had, both then and since, contended that government had no right to have any connection with any banks. In his opinion, the United States Bank (which he then advocated, and assisted to establish) was not established according to the Constitution. Congress had no right to establish such a bank. He acted contrary to his own impressions of right. Many people may do things which they do not believe to be lawful, from necessity. He acted from necessity.

Mr. Webster, resuming his remarks, said: —

I thought the gentleman had said, formerly, that, in consequence of the decision of the question, he felt thenceforward precluded from opposing the bank as being unconstitutional.

Mr. Calhoun again explained. He (Mr. Calhoun) thought the connection between government and banks was now broken, and that set him at liberty; so that now he could oppose what he had then, and since, earnestly advocated.

It is not my desire, Sir, to hold the gentleman to a report of his speech, which he may choose, even now, to disclaim. I have

never heard of his disclaiming it before; and even now, Sir, I do not understand him as being desirous of retracting or denying any thing contained in the printed report of his speech, respecting the importance of a uniform national currency. That topic makes up the sum and substance of his whole speech. It was the topic of the occasion; it was the express purpose for which his committee had been raised, and for the accomplishment of which the whole proceeding was gone into. It was all currency, currency, currency; and whether the gentleman now thinks the law constitutional or unconstitutional, he cannot deny that his own object, and the object of Congress, was to furnish a circulating medium for the country. And here again, so unimportant, relatively, was the mere custody or deposit of the public moneys in the bank, that the bill, as originally introduced, contained no provision for that object. A section was afterwards introduced, in committee of the whole, on my motion, providing for the deposit of the public moneys with the bank, unless the Secretary of the Treasury should, at any time, otherwise order and direct; a reservation of power to the Secretary, which, as I think, and always have thought, was greatly abused by the removal of the deposits in 1833. By reference to the debates, Sir, it will be found that other friends of the measure followed up the general ideas of the honorable gentleman from South Carolina, and supported the bank, as a necessary agent or instrument for establishing anew a national currency, for the uses of commerce and exchange.

The operation of the joint resolution of April, 1816, aided, no doubt, in a proper degree, by the institution of the bank, and the currency which it furnished, accomplished the great end of the resumption of specie payments; and for a long period we had no further trouble with the currency.

And I now proceed to say, Sir, that the late President of the United States has acknowledged this duty, as often, and as fully and clearly, as any of his predecessors. His various admissions or recognitions of this obligation are too recent and too fresh in every one's recollection to require or to justify particular citation. All the evils we now feel, indeed, we have encountered *in the search after a better currency.* It has been in the avowed attempt to discharge the duty of government connected with the circulation, that the late administration has led us to where we

now are. The very first charge that the late President ever brought against the bank was, that it had not maintained a sound and uniform currency. Most persons, probably, will think the charge quite unfounded; yet this was the charge. Its dereliction of duty, or its want of ability to perform what had been expected from it, its failure, in some way, to maintain a good currency, was the original professed cause of dissatisfaction. And when the bill for rechartering the bank was negatived, it was not on the ground that government had nothing to do with the national currency, but that a better provision for it might be made than we had in the bank. The duty was not to be disclaimed, or thrown off, or neglected; new agents, only, were to be employed, that it might be better performed. The State banks would do better than the national bank had done; the President was confident of this, and therefore he rejected the national bank as an agent, and adopted the State banks. And what he had so constantly promised us would happen, he as resolutely maintained, afterwards, had happened. Down to his last message, down to the last hour of his administration, he insisted upon it that the State banks had fulfilled all his expectations and all their own duties; and had enabled the government to accomplish, in the very best manner, the great and important object of supplying the wants of the country in reference to currency and exchange. We have the same head of the treasury,* Sir, who has repeated and echoed all these statements, whether of prophecy or fulfilment, in successive reports, some of them not less tersely and intelligibly written than that now before us; and we have heads of other departments, who concurred, I presume, from time to time, in the original statements, and in the faithful echoes of them from the treasury. All these functionaries have been laboring, with the utmost zeal, as they professed, to perform their constitutional obligation of furnishing the country with a good currency, with a better currency, with the best currency; and they have dragged Congress, dragged the country, and dragged themselves, into difficulty, perplexity, and distress, in this long and hot pursuit. And now, behold, they draw up all at once, and declare that the object of all this toil and struggle is one with which they have nothing at all to do!

* Hon. Levi Woodbury.

But, as the last message of the late President was loud and warm in its praises of the State banks, for the good services which they rendered to currency and exchange, so, no doubt, would the first message of the present President have commended, with equal earnestness, the success with which government had been able, by means of the State banks, to discharge this important part of its duties, if the events of May last had not left that subject no longer a topic of felicitation. By the suspension of specie payments all was changed. The duty of government was changed, and the Constitution was changed also. Government was now to give up, and abandon for ever, that very thing which had been the professed object of its most assiduous care and most earnest pursuit for eight long and arduous years!

Mr. President, when I heard of the suspension of the banks, I was by the side of the Ohio River, on a journey, in the course of which I had occasion, frequently, to express my opinion on this new state of things; and those who may have heard me, or noticed my remarks, will bear witness that I constantly expressed the opinion, that a new era had commenced; that a question of principle, and a question of the highest importance, had arisen, or would immediately arise; that, hereafter, the dispute would not be so much about means as ends; that the extent of the constitutional obligation of the government would be controverted; in short, that the question whether it was the duty of Congress to concern itself with the national currency must, inevitably, become the leading topic of the times. So I stated, whenever I had the pleasure of addressing my fellow-citizens, and so I feel and think now. I said often, on these occasions, and I say now, that it is a question which the people, by the regular exercise of their elective franchise, must decide. The subject is one of so much permanent importance, and public men have become so committed, on the one side or the other, that the decision must, as I think, be made by the country. We see an entirely new state of things. We behold new and untried principles of administration advanced and adopted. We witness an avowed and bold rejection of the policy hitherto always prevailing. The government has come, not to a pause, but to a revulsion. It not only stops, but it starts back; it abandons the course which it has been pursuing for near fifty years,

and it reproaches itself with having been acting, all that time, beyond the limits of its constitutional power.

It was my second proposition, Sir, that the message, the bill, and the amendment, taken together, deny, in substance, that this government has any power or duty connected with the currency, or the exchanges, beyond the mere regulation of the coin.

And, Sir, is this not true? We are to judge of the message by what it omits, as well as by what it proposes. Congress is called together in a great commercial crisis. The whole business of the country is arrested by a sudden disorder of the currency. And what is proposed? Any thing to restore this currency? Any thing with a direct view of producing the resumption of payment by the banks? Is a single measure offered, or suggested, the main purpose of which is general relief to the country? Not one. No, Sir, not one. The administration confines its measures to the government itself. It proposes a loan, by the means of treasury-notes, to make good the deficiency in the revenue; and it proposes secure vaults, and strong boxes, for the safe-keeping of the public moneys; and here its paternal care ends. Does the message propose to grapple, in any way, with the main evil of the times? Seeing that that evil is one affecting the currency, does the message, like that of Mr. Madison, in 1815, address itself directly to that point, and recommend measures of adequate relief? No such thing. It abstains from all general relief. It looks out for the interest of the government, as a government; and it looks no further. Sir, let me turn to the message itself, to show that all its recommendations, and, indeed, all the objects in calling Congress together, are confined to the narrow and exclusive purpose of relieving the wants of the government.

The President says, that the regulations established by Congress for the deposit and safe-keeping of the public moneys having become inoperative by the suspension of payment by the banks; and apprehending that the same cause would so diminish the revenue, that the receipts into the treasury would not be sufficient to defray the expenses of government; and as questions were also expected to arise respecting the payment of the October instalment of the surplus revenue, and doubting whether

government would be able to pay its creditors in specie, or its equivalent, according to law. He felt it to be the duty to call Congress together. These are the reasons for adopting that measure. They are all the reasons: and they all have exclusive regard to the government itself.

In the next place, let us see what measures the message recommends to Congress. In its own language, the objects demanding its attention are,—

"To regulate, by law, the safe-keeping, transfer, and disbursement of the public moneys; to designate the funds to be received and paid by the government; to enable the treasury to meet promptly every demand upon it; to prescribe the terms of indulgence, and the mode of settlement to be adopted, as well in collecting from individuals the revenue that has accrued, as in withdrawing it from former depositaries."

These are all the objects recommended particularly to the care of Congress; and the enumeration of them is followed by a general suggestion, that Congress will adopt such further measures as may promote the prosperity of the country. This whole enumeration, it is obvious, is confined to the wants and convenience of the government itself.

And now, Sir, let us see on what grounds it is that the message refrains from recommending measures of general relief. The President says,—

"It was not designed by the Constitution that the government should assume the management of domestic or foreign exchange. It is, indeed, authorized to regulate, by law, the commerce between the States, and to provide a general standard of value or medium of exchange in gold and silver; but it is not its province to aid individuals in the transfer of their funds, otherwise than through the facilities afforded by the Post-Office Department. As justly might it be called on to provide for the transportation of their merchandise."

And again,—

"If, therefore, I refrain from suggesting to Congress any specific plan for regulating the exchanges of the country, relieving mercantile embarrassments, or interfering with the ordinary operations of foreign or domestic commerce, it is from a conviction that such measures are not within the constitutional province of the general government, and that their adoption would not promote the real and permanent welfare of those they might be designed to aid."

The President, then, declines to recommend any measure for the relief of commerce, for the restoration of the currency, or for the benefit of exchanges, on the avowed ground, that, in his opinion, such measures are not within the constitutional power of Congress. He is distinct and explicit, and so far entitled to credit. He denies, broadly and flatly, that there is any authority in this government to regulate the currency and the exchanges, beyond its care of the coin. The question, then, is fairly stated. It cannot be misunderstood; and we are now to see how Congress, and, what is much more important, how the country, will settle it.

Mr. President, if, in May last, when specie payments were suspended, the president of one of the banks had called his council of directors together, informed them that their affairs were threatened with danger; that they could not collect their debts in specie, and might not be able to pay their creditors in specie, and recommended such measures as he thought their interests required; his policy in all this would have been no more exclusively confined to the interest of his corporation, than the policy of the message is confined to the interest of this great corporation of government. Both in practice, therefore, and on principle, in reality, and avowedly, the administration abandons the currency to its fate. It surrenders all care over it, declines all concern about it, and denies that it has any duty connected with it.

Sir, the question, then, comes to be this: Shall one of the great powers of the Constitution, a power essential to it on any just plan or theory of government, a power which has been exercised from the beginning, a power absolutely necessary and indispensable to the proper regulation of the commerce of the country, be now surrendered and abandoned for ever? To this point we have come, after pursuing the "experiment" of the late administration for five years. And from this point, I am persuaded, the country will move, and move strongly, in one direction or another. We shall either go over to the gentleman from Missouri,* and suffer him to embrace us in his gold and silver arms, and hug us to his hard-money breast; or we shall return to the long-tried, well-approved, and constitutional practice of the government.

* Mr. Benton.

As to the employment of the State banks for the purpose of maintaining the currency, and carrying on the operations of exchange, I certainly never had any confidence in that system, and have none now.

I think the State banks can never furnish a medium for circulation, which shall have universal credit, and be of equal value everywhere.

I think they have no powers or faculties which can enable them to restrain excessive issues of paper.

I think their respective spheres of action are so limited, and their currencies so local, that they can never accomplish what is desired in relation to exchanges.

Still, I prefer the employment of State banks to the project before us; because it is less of a *project;* because it is less dangerous; and, chiefly, because it does *not* surrender, effectually and in terms, a great power of the Constitution.

In every respect, this project is objectionable. It is but another "experiment"; and those who recommend it so zealously were the authors of the last, and were equally full of confidence and assurance in regard to that.

By whom are we invited to try this experiment? What voices do we hear raised in its recommendation? Are they not the well-known voices which we heard so often when the late "experiment" was begun? We know of but one accession. The voice of the honorable member from South Carolina is heard, it is true, now mingling with the general strain: and that is all. Where, then, is the ground for confidence in this experiment, more than there was for it in the last?

This scheme, too, is against all our usages and all our maxims. It locks up the revenue, under bolts and bars, from the time of collection to the time of disbursement. Our practice was [illegible] otherwise, and it has been a useful practice. In 1833, the Secretary of the Treasury admonished the deposit banks, since they had obtained the custody of the public funds, to accommodate the public, to loan freely, especially to importing merchants. And now a system is proposed to us, according to which any use of the public funds, by way of loan or accommodation to the public, is made a criminal offence, and to be punished by indictment! Admirable consistency!

But the great objection to the measure, that which on mature

diminishes the importance of all other objections, is its abandonment of the duty of government. The character of this project is severance of the government from the people. This, like the mark of Cain, is branded on its forehead. Government separates itself, not from the banks merely, but from the community. It withdraws its care, it denies its protection, it renounces its own high duties. I am against the project, therefore, in principle and in detail; I am for no new experiments; but I am for a sound currency for the country. I mean by this, a convertible currency, so far as it consists of paper. I differ altogether, in this respect, from the gentleman from South Carolina. Mere government paper, not payable otherwise than by being received for taxes, has no pretence to be called a currency. After all that can be said about it, such paper is mere paper money. It is nothing but bills of credit. It always has been, and always will be, depreciated. Sir, we want specie, and we want paper of universal credit, and which is convertible into specie at the will of the holder. That system of currency the experience of the world and our own experience have both fully approved.

I maintain, Sir, that the people of this country are entitled, at the hand of this government, to a sound, safe, and uniform currency. If they agree with me, they will themselves say so. They will say, "It is our right; we have enjoyed it forty years; it is practicable, it is necessary to our prosperity, it is the duty of government to furnish it; we ought to have it, we can have it, and we will have it."

The language of the administration, on the other hand, is, "Good masters, you are mistaken. You have no such right. You are entitled to no such thing from us. The Constitution has been misunderstood. We have suddenly found out its true meaning. A new light has flashed upon us. It is no business of ours to furnish a national currency. You cannot have it, and you will not get it."

Mr. President, I have thus stated what I think to be the real question now before the country. I trust myself, cheerfully, to the result. I am willing to abide the test of time, and the ultimate judgment of the people; for it is a sentiment deeply infused into me, it is a conviction which pervades every faculty I possess, that there can be no settled and permanent prosperity of the commerce and business of the country, until the constitu-

tional duty of government, in regard to the currency, be honestly and faithfully fulfilled.

In Senate, October 3, Mr. Calhoun spoke on the same subject at length, and also in reply to Mr. Webster's argument. At the conclusion of his speech, Mr. Webster addressed the Senate as follows: —

The gentleman from South Carolina has said of my remarks on a former day, that where he looked for argument, he found only denunciation. But there are always two views of such a matter; it may certainly happen that denunciation is given instead of argument; but it may also happen that arguments which cannot be answered are got rid of by calling them denunciation. That, however, is a question which it is not for the two parties themselves to decide. I listened with great respect to the opinions of the member, as it is my constant practice to do, and I meant to express my astonishment, at this period of his public life, looking back to his former course in relation to the currency of this country for the space of nearly twenty years, — I say, I must give utterance to my astonishment at finding him where he now is, namely, according to his own avowal, back again to the old Continental money! If this government paper currency, of which the gentleman is now become the sudden and zealous advocate, is not what I pronounced it to be, *Continental money*, what is it? It is not a species of exchequer-notes; it is a mere government paper, circulating without interest, receivable for the dues of government, and with no certain provisions for its redemption; and that is what the old Continental money was. But the gentleman says there is no analogy between his proposed money and the old Continental, because Congress then levied no taxes! But Congress made requisitions on the States, and did not the States levy taxes?

The greater part of his remarks, so far from being any reply to the subjects under discussion, were taken up with a general history of the banking system. No doubt much of the outline he has given may be correct; but there is nothing in all he has advanced to justify his leading inference, which is, that the credit system ought to be destroyed, and the hard-money system henceforth to be acted upon. In coming to this conclusion,

he is by far too general; he seems, indeed, to have generalized himself out of all power of applying practical truths to common subjects.

He has referred to the Bank of Amsterdam as an argument in proof of the superiority of a bank of deposit over one of circulation. But, so far from a bank of deposit being safer than one of circulation, we all know that the Bank of England took the character of a bank of circulation, among other things, to avoid the danger of a bank of deposit, making the money in the bank liable to constant call by the bills. Every day's experience in this way brings the solidity of the bank to the test. It is astonishing that he should assert the superiority and greater safety of such kind of banks; they have all the dangers of banks of circulation, without any of their security, which is the liability of an immediate demand, at any time, for the specie represented by their notes. Certificates of deposit issued by a bank of deposit are not subject to this test. When certificates upon sums in actual deposit are issued, who is to know when the issue begins upon deposits not in existence? Who is to know where such an issue of such certificates may end? I conclude, therefore, that the notes or certificates of a bank of deposit are not in their nature so good as the convertible notes of our common banks of circulation. But if the certificates issued upon actual deposits are not so safe as the notes of banks, always convertible at the pleasure of the holder, then how much less safe are the notes proposed by the gentleman! Notes to be issued on no deposit, and convertible at no time! These he would issue, not upon the basis of any deposit, not convertible at the will of the holder, and not bearing any interest! Now, here, I insist upon it, is all the character and all the danger of the old Continental money; and this train of reasoning, the gentleman says, is denunciation!

The gentleman brings an objection against the Bank of England as a bank of circulation, which he doubtless deems of great weight against all such banks. He says the Bank of England made successive augmentations of its capital, beginning first with a capital of a quarter of a million, and ending, after the lapse of one hundred years, with a capital of eleven millions. But will the gentleman call this a rapid advance? Within the space of one hundred years, has not the advance of commerce,

trade, manufactures, population, and every thing else, been far more rapid? Is it not the fact, that commerce and manufactures have outgrown the bank, and that it has lagged behind? The capital of that bank now, at eleven millions, for a commerce so vast and so extended as that of England, is a much smaller capital, in point of fact, than its original capital of a quarter of a million a century ago. Surely the gentleman must admit that, in the course of one hundred years, manufactures and commerce have increased beyond all proportion to the capital of the bank.

Again, the gentleman says, that, in 1797, when the Bank of England suspended specie payments,* to the astonishment of the world, the suspension produced no great shock. I think somewhat differently. It is true there was no immediate, instantaneous shock, but the wants of the government and of the community were such as to give rise to a constant over-issue, so that at one time the depreciation, I think, was nearly twenty per cent. When government afterwards threatened to resume specie payments, a great contraction of issues became necessary. And if the suspension rendered such a contraction, at a subsequent period, necessary, or rather inevitable, how can it be asserted that the suspension never occasioned any great shock? That contraction was of itself a great shock and a great distress. It made a violent change in the relations of debtor and creditor throughout the kingdom.

So in this country, in 1814, the gentleman says he was astonished that the suspension produced so little effect. What effect, I would ask, would satisfy him? What sort of a shock must it be before he will feel it? The fact is, that at that time, in places where the banks had maintained specie payments, exchange on some places where they had suspended was at twenty-five per cent. discount. A man here could not buy a bill on Boston at less than twenty-five per cent. advance; in other words, the paper of the banks in this District was depreciated twenty-five per cent.! And was not that shock enough? Was not that a shock to the credit of the country? To me it appears that the gentleman, in his general view, and in his desire to fix great eras and establish a few sweeping propositions, leaves out quite too much of what is

* This assertion, as here responded to, is modified, and much changed, in the *printed* speech of Mr. Calhoun, so as to read differently. — *Note by the Reporter.*

practical and precise. He expresses his astonishment at what he witnessed in 1816, when, although the banks did not pay specie, yet, as he says, they kept their credit. He certainly saw what I did not see. Their credit was depreciated from New England, proceeding south, to Washington; in all that region their credit fell to various low rates. Beyond that point I have less recollection of the circumstances. Granting, however, the gentleman's argument, that, when banks have suspended specie payment, still their paper has maintained its ground, does it follow that a paper starting into existence on the very principle of suspension, and never even promising to pay, will be a good paper currency? Does he think such a paper can maintain its ground, or ever, indeed, obtain any ground to stand upon at all? Yet such is the currency the gentleman has proposed; and the argument by which he would recommend it to the country is built upon the assumed fact, that the paper even of suspended banks is a good currency!

To prevent all mistakes on this subject, I desire to repeat, that, in my opinion, it is utterly vain and hopeless to maintain any paper circulation at par with specie, that is not convertible into specie at the will of the holder. If we are not ready to admit this, the history, not only of all other countries, but of our own country, must have been lost upon us.

The gentleman next proceeds, after this strong testimony in favor even of broken banks, to descant vehemently upon the dangers which he *now* apprehends from the whole banking system, and of course even from good banks! He has classed all these perils very systematically, and finds that the banking system is full of dangers; 1st, to civil liberty; 2dly, to industry; and 3dly, to the moral and intellectual development of mankind.*

Now, as relates to liberty, the only question is, whether the extension of the property and business of the great mass of mankind can be adverse and unfavorable to liberty. If the raising of the great mass of men to a better condition, if surrounding them with greater comforts and greater abundance of all things, if thus elevating their social condition, is unfavorable to liberty, then, indeed, the banking system, or, in other words, the credit system, (for it is the same thing; they are identical,) is, as

* This proposition of Mr. Calhoun's is quite softened down, and almost suppressed, in the printed speech. — *Note by the Reporter.*

the gentleman maintains, full of danger to liberty; for it is that very system, and none other, which, within the last two hundred years, has raised the condition of the body of the people in all commercial countries. It is that system which has made the working men and the industrious classes of modern times superior even to the landed proprietors and feudal lords of former times.

The institution of banks is one part in that great system of trade, commerce, and credit, which has grown up within the last two centuries; and, let me ask, what has been the progress of liberty during the lapse of these centuries? Does not the slightest retrospect confute the gentleman's argument? Are the ideas of liberty now less distinct, or its enjoyment less general or less secure, than in the days of the Stuarts? If banks are useful to trade and commerce, if they give to industry the facilities of capital, if they thus raise the mass of society into a better condition, providing for them better, making them richer, multiplying the means of employment for all, enabling the industrious to maintain themselves better and to educate their children better, who is ready to assert that all this has an unfavorable effect on the progress of civil liberty?

In reply to my arguments on a former day, showing it to be the duty of the government to regulate the currency, (which I can agree with the gentleman in calling the very life-blood of the political body,) the honorable gentleman asserts that government has no right to interfere with individuals. He therefore proposes individual banking, and maintains that credit is a man's private property; that government has no more right to interfere with this than with any other kind of property; that government has no right to put restrictions of any kind upon it. But this which the gentleman asserts is not the right of government, is the very and the especial object for which government is instituted. Government does interfere and place restrictions in a thousand ways upon every kind of individual property; and it is done, and is necessarily done, by every government, for the good of the whole community. But if the gentleman is so very desirous of establishing such a system of private individual banking, he need not go far, he need not even stir from his seat; he may see everywhere around him all the mischiefs of that system of individual irresponsible banking which he recommends.

is the currency which the government seeks to give us, we have got it!

The gentleman's system has been tried; it is now upon us; and the country has suffered enough, and too much, from it already. Years ago, as well as now, we had private banking; everybody turned banker, everybody put out his notes for circulation, till it was at last found necessary to restrain this right, this very right which the gentleman says government has not the right to restrain; a right which, however, has more than once been proved to be, after all, nothing more than the right of practising fraud and imposition upon the people. Many, perhaps most, of the States, therefore, have restrained it by law It is the very necessity of checking and restraining the licentious exercise of this individual right which is the origin of banking companies.

By the institution of such corporations, the common right is restricted for the benefit of the whole, and paper as money is required to be founded on assigned capital and recognized credit, and to be issued under an administration of responsible citizens, responsible, individually and corporately, to the laws. It is to restrain a right which leads to so much imposition, that it has been found necessary to create banking companies, and by means of them to establish commercial credit on a safe foundation. This is the system of credit which the gentleman is now joined with the administration to uproot and to destroy. Instead of it, he would let loose individual bankers with their spurious paper all over the country; and, in proof of the expediency of doing all this, he maintains that the banking system is full of danger to liberty. That it may be dangerous to the liberty of defrauding and imposing upon the poor, I have already conceded to him, and believe there are few who will not agree with me that this, if a danger, is a wholesome and valuable one.

But the gentleman has also discovered, not only that the credit system is full of danger to liberty, but that it exercises a pernicious influence upon the industry of the people! This, indeed, is to me entirely new. Surely the gentleman has been dealing with things unreal and imaginary! It is quite a new thing to me that the young men of our country are, as the gentleman says, seeking after an education to make themselves

bankers' clerks; and that there is no other road to distinction but employment behind the counter and in the banking-houses! How long has this danger been hanging over the land, which has never till now been seen, or suspected, or dreamt of? Even the late illustrious President and the gentleman from Missouri* never discovered or suspected so much as this in all their industry and zeal against the banking institutions of the country. It is quite novel to me that the ingenuous youth of the country, in all its colleges and halls, are only seeking to prepare themselves to be cashiers and tellers, writers and accountants! I have never heard that their desire of distinction has taken such a turn, or that, out of regard to such pursuits, they have stifled their ambition for literary and professional distinction. On the contrary, if we look at the subject as it is, we shall discover that a well-regulated banking system is eminently favorable to the industry of the people, by assisting the industrious who have no capital, and lending aid to enterprise which otherwise would waste itself in ineffectual efforts. This system, invaluable to our country, has a tendency to break down the influence which dead capital confers upon the few who possess it, while it lifts up the many who have no capital. In so doing, it promotes industry, and betters the condition of the greater number. Look at our villages and manufacturing cities in the North; are they smitten, and withered, and destroyed by this system? They all have their banks, which are established according to the necessities and prospects of the people; and wherever they are, their industry is seen in full and vigorous operation, and the people busy in prosperous employment. But where the credit system, by any cause, is prostrate and injured, (as it now is,) and its action made to cease, the hum of business is silenced, and the industrious portion of the community, the mass of the people, is thrown out of employment.

Let us look at things as they are, and let us not be influenced by denunciation against institutions which exist in all the States. That these institutions have been abused is very probable; but how shall that be remedied? After all I have heard from the gentleman and his coadjutors, I find the only remedy they propose is to withdraw from them! To withdraw from

* Mr. Benton.

them! But will that remedy any evils of the system? Men might as well think of putting out a fire by running away from it. If we saw a house in flames, and the blaze rushing out through the windows, who would think of recommending us, as a means of extinguishing the fire, to withdraw, to go away, and leave the house and the fire to themselves? The system is with us, and cannot be got rid of, even if it were desirable to get rid of it. It is, therefore, our duty to do what we can to regulate it. It is our duty, as practical men, taking things as we find them, and seeing that to eradicate an evil is not possible, but to mitigate it may be easy, — it is, under such circumstances, our paramount duty to render the currency which we have the best possible. Instead of this, the administration undertakes to do nothing, and the honorable gentleman echoes back the advice, and proposes to withdraw the government, to divorce it from the system! But does the gentleman think that, if there are evils, those evils will be less when all remedy is withdrawn?

With respect to the TWO CURRENCIES, one of specie for the government, and the other of depreciated paper for the people, the reasoning we have heard is this: "Would you have government take bad money for its dues? If the people are willing to take such a depreciated medium, ought the government to take it?"

This, Sir, is not our point of objection; we do not wish the government to take *bad money* because the people are obliged to take it. What we complain of is, that the administration does nothing, and proposes nothing, to make this *bad money* of the people *better*. We want an equality; that both government and people may share the same fate, and use the same money, and that the government may perform its duty of rendering the money, the currency of the people, sound and good.

It is this equality which I desire; not that government should take *bad money*, but that it should adopt such measures that there may be no bad money to take; that the people first, and then the government, may have and receive good money. This can only be done by regulating the currency. It cannot be done by continuing a wild warfare against the credit, the currency, the money, of the people. The government has, in times past, thus regulated the currency; and if ever we are to see a return of prosperity it must be done again. But the vice of the

message, the defect of this measure and of this amendment is, that nothing is attempted for the people: government looks out for its own part, for the lion's share, and leaves all the rest to chance and accident! Again, I assert and maintain that it is the duty of the government to give effectual relief to the people, and to the people first and most especially: for if the people are relieved from a bad currency, it is plain enough there would be no bad currency for the government to receive. Then this invidious and selfish measure of one currency for the government and another for the people would be rendered unnecessary. It is the duty of the government to do what it can: its power is a trust power; it was not created for itself alone. Its object is the good of the people; and now is not the time to disavow and neglect that object, by leaving the country to suffer, and only providing for itself.

In reply to Mr. Buchanan, Mr. Webster said:—

I shall detain the Senate, Sir, with a few remarks only in reply to the gentleman from Pennsylvania.

The gentleman has met the question fairly. He denies that there is any power or duty belonging to this government such as I have attempted to maintain. He denies that it is incumbent on Congress to maintain a sound and uniform currency, or to have any thing to do with currency or exchange, beyond the regulation of coin. I am glad to see the honorable member take this distinct ground. All see now what the question is.

The gentleman remarked, that I had abandoned that part of the Constitution which is usually relied on as giving Congress power to establish a bank; that is to say, the power to lay and collect taxes. But you will remember, Sir, that I was not discussing the power to create a bank, although, certainly, I have no doubt of the power. I was not contending merely for something that should aid in the collection of taxes; I was speaking of the power and duty of providing a sound currency for the whole country; a power and a duty which would belong to this government, if another dollar of taxes were never to be collected. Yes, Sir, if we knew, this day, that the proceeds of the sales of the public lands would yield a revenue equal to all the wants of the government for a hundred years to come, our want

of a currency would be the same, and the duty of government to provide it the same, as it now is.

The gentleman argues, too, that a power to provide a currency cannot be drawn from the commercial power granted to Congress; because, he says, that power is only to *regulate* commerce, and to regulate is not to *create*. This is not quite correct; there are many forms of expression in our language, especially those in which complex operations are described, in which to regulate means to cause, or to produce. But suppose I concede to the gentleman that to regulate never means to create. What then? Would that prove that Congress could not create a currency, in order thereby to regulate commerce? May it not be necessary to make one thing, in order to regulate another? Let us take the gentleman's own illustration. He says Congress has power to *regulate* the value of foreign coin; but that this cannot mean that it has the power to create such coin. Very true; but then it may make the steelyards, or the balance, (may it not?) as necessary instruments to ascertain that value which is to be regulated. It may establish an assay on any scale it chooses.

We have just passed a bill authorizing the treasury department to *make* and issue treasury-notes; and we have done this under the power to borrow money; and certainly the honorable member himself did not doubt, in that case, that, in exercising a clear constitutional power, we had a right to make any thing which became necessary as an instrument to its convenient execution.

The power of Congress, therefore, over the currency; its power to regulate all currency, metallic or paper; and its power, and its duty, to provide and maintain a sound and universal currency, belong to it as an indispensable and inseparable part of its general authority to regulate commerce.

But, Sir, I might safely go much farther than this. It could be shown, from a hundred instances, that the power to regulate commerce has been held to be broad enough to include an authority to do things, to make things, to create things, which are useful and beneficial to commerce; things which are not so much *regulations* of commerce, in a strict sense, as they are aids and assistances to commerce. The gentleman himself, I will undertake to say, has voted for laws for such purposes very often.

Mr. President, we have appropriated, I know not how much more, or how much less, than a million of dollars, for a breakwater at the mouth of the Delaware. The gentleman has concurred in these appropriations. Now, Sir, we did not propose to *regulate* a breakwater; we proposed to make it, to *create* it. In order to *regulate* commerce, and to regulate it beneficially, Congress resolved to *create* a breakwater; and the honorable member never found any constitutional difficulty in the way, so far as I remember. And yet, Sir, a breakwater is not essential and indispensable to commerce; it is only useful and beneficial. But a sound currency, of universal and equal credit, *is* essential to the enjoyment of the just advantages of the intercourse between the States. The light-houses on the sea-coast, and on the lakes, and all the piers, buoys, and harbors, have been created, in like manner, simply by the power of Congress to regulate commerce.

Mr. President, the honorable member from Pennsylvania, growing warm in the progress of his speech, at length burst out into an exclamation. "What," said he, "would the framers of the Constitution say, could they be now present, and hear the doctrines for which the member from Massachusetts contends!"

Sir, I have already quoted the language of several of these good and great men. I rely on their opinions, fully and clearly expressed. I have quoted Mr. Madison, among others; but, Sir, to use the language of the forum, I am willing to call the witness again into court, and to examine him further. Mr. Madison, all will admit, is a competent witness. He had as much to do as any man in framing the Constitution, and as much to do as any man in administering it. Nobody, among the living or the dead, is more fit to be consulted on a question growing out of it; and he is far from being considered as a latitudinarian in his mode of construction. I will then, Sir, question him further.

Be it remembered, Sir, that my proposition simply is, that it is a part of the power and duty of Congress to maintain a general currency, suitable to the state of things existing among us, for the use of commerce and the people. Now, Sir, what says Mr. Madison? I read from his message of December, 1816.

" Upon this general view of the subject, it is obvious that there is only wanting to the fiscal prosperity of the government the restoration of a uniform medium of exchange. The resources and the faith of the nation, displayed in the system which Congress has established, insure respect and confidence both at home and abroad. The local accumulations of the revenue have already enabled the treasury to meet the public engagements in the local currency of most of the States; and it is expected that the same cause will produce the same effect throughout the Union. But, for the interests of the community at large, as well as for the purposes of the treasury, it is essential that the nation should possess a currency of equal value, credit, and use, wherever it may circulate. The Constitution has intrusted Congress, exclusively, with the power of creating and regulating a currency of that description; and the measures which were taken during the last session, in execution of the power, give every promise of success. The Bank of the United States has been organized under auspices the most favorable, and cannot fail to be an important auxiliary to those measures."

And now, Sir, I hand the witness over to the gentleman for cross-examination.

But, Sir, if the honorable member from Pennsylvania could overthrow my proposition, he would equally overthrow that of his friend from South Carolina; because that gentleman admits that there must be a paper currency of some kind, and that a paper currency issued by the authority of government. And if we both fall, we shall pull down along with us (which mercy forefend!) the Secretary of the Treasury, report and all; for it is one of the leading objects of that luminous paper to show how far government issues might usefully become the medium of payment and the means of circulation. And, indeed, every vote given in Congress for the treasury-note bill, the gentleman's own vote, if given, or so far as given, on the ground that treasury-notes shall pass from hand to hand as currency, is a refutation of his argument.

Mr. President, this power over the currency for which I am contending is in the Constitution; the authority of Congress over commerce would be radically deficient without it; the power has been admitted, acknowledged, and exercised. To deny that this power is in the Constitution, is to rewrite the Constitution, to reconstruct it, to take it away, and give us a substitute. To deny that the power has been acknowledged and exercised, is to contradict history, and to reverse facts.

the acts of cession by the States, the act of Congress, the proceedings and history of the times, and I find nothing to lead me to doubt that it was the intention of all parties to leave this, like other subjects belonging to legislation for the ceded territory, entirely to the discretion and wisdom of Congress. The words of the Constitution are clear and plain. None could be clearer or plainer. Congress, by that instrument, has power to exercise exclusive jurisdiction over the ceded territory, in all cases whatsoever. The acts of cession contain no limitation, condition, or qualification whatever, except that, out of abundant caution, there is inserted a *proviso* that nothing in the acts contained shall be construed to vest in the United States any right of property in the soil, so as to affect the rights of individuals therein, otherwise than as such individuals might themselves transfer their right of soil to the United States. The acts of cession declare, that the tract of country "is for ever ceded and relinquished to Congress and to the government of the United States, in full and absolute right and exclusive jurisdiction, as well of soil as of persons residing or to reside therein, pursuant to the tenor and effect of the eighth section of the first article of the Constitution of the United States."

Now, that section, to which reference is thus expressly made in these deeds of cession, declares, that Congress shall have power "to exercise exclusive legislation, in all cases whatsoever, over such district, not exceeding ten miles square, as may, by cession of particular States and the acceptance of Congress, become the seat of government of the United States."

Nothing, therefore, as it seems to me, can be clearer, than that the States making the cession expected Congress to exercise over the District precisely that power, and neither more nor less, which the Constitution had conferred upon it. I do not know how the provision, or the intention, either of the Constitution in granting the power, or of the States in making the cession, could be expressed in a manner more absolutely free from all doubt or ambiguity.

I see, therefore, nothing in the act of cession, and nothing in the Constitution, and nothing in the history of this transaction, and nothing in any other transaction, implying any limitation upon the authority of Congress.

If the assertion contained in this resolution be true, a very

strange result, as it seems to me, must follow. The resolution affirms that the faith of Congress is pledged, indefinitely. It makes no limitation of time or circumstance. If this be so, then it is an obligation that binds us for ever, as much as if it were one of the prohibitions of the Constitution itself. And at all times hereafter, even if, in the course of their history, availing themselves of events, or changing their views of policy, the States themselves should make provision for the emancipation of their slaves, the existing state of things could not be changed, nevertheless, in this District. It does really seem to me, that, if this resolution, in its terms, be true, though slavery in every other part of the world may be abolished, yet in the metropolis of this great republic it is established in perpetuity. This appears to me to be the result of the doctrine of plighted faith, as stated in the resolution.

In reply to Mr. Buchanan, Mr. Webster said: —

The words of the resolution speak for themselves. They require no comment. They express an unlimited plighted faith. The honorable member will so see if he will look at those words. The gentleman asks whether those who made the cession could have expected that Congress would ever exercise such a power. To this I answer, that I see no reason to doubt that the parties to the cession were as willing to leave this as to leave other powers to the discretion of Congress. I see not the slightest evidence of any especial fear, or any especial care or concern, on the part of the ceding States, in regard to this particular part of the jurisdiction ceded to Congress. And I think I can ask, on the other side, a very important question for the consideration of the gentleman himself, and for that of the Senate and the country; and that is, Would Congress have accepted the cession with any such restraint upon its constitutional power, either express or understood to be implied? I think not. Looking back to the state of things then existing, and especially to what Congress had so recently done, when it accepted the cession of the Northwestern Territory, I entertain no doubt whatever that Congress would have refused the cession altogether, if offered with any condition or understanding that its constitutional authority to exercise exclusive legislation over the District in all cases whatsoever should be abridged.

The Senate will observe that I am speaking solely to the point of plighted faith. Upon other parts of the resolution, and upon many other things connected with it, I have said nothing. I only resist the imposition of new obligations, or a new prohibition, not to be found, as I think, either in the Constitution or any act of Congress. I have said nothing on the expediency of abolition, immediate or gradual, or the reasons which ought to weigh with Congress should that question be proposed. I can, however, well conceive what would, as I think, be a natural and fair mode of reasoning on such an occasion.

When it is said, for instance, by way of argument, that Congress, although it have the power, ought not to take a lead in the business of abolition, considering that the interest which the United States have in the whole subject is vastly less than that which States have in it, I can understand the propriety and pertinency of the observation. It is, as far as it goes, a pertinent and appropriate argument, and I shall always be ready to give it the full weight belonging to it. When it is argued that, in a case so vital to the States, the States themselves should be allowed to maintain their own policy, and that the government of the United States ought not to do any thing which shall, directly or indirectly, shake or disturb that policy, this is a line of argument which I can understand, whatever weight I may be disposed to give to it; for I have always not only admitted, but insisted, that slavery within the States is a subject belonging absolutely and exclusively to the States themselves.

But the present is not an attempt to establish any such course of reasoning as this. The attempt is to set up a pledge of the public faith, to do the same office that a constitutional prohibition in terms would do; that is, to set up a direct bar, precluding all exercise of the discretion of Congress over the subject. It has been often said, in this debate, and I believe it is true, that a decided majority of the Senate do believe that Congress has a clear constitutional power over slavery in this District. But while this constitutional right is admitted, it is at the same moment attempted effectually to counteract, overthrow, and do away with it, by the affirmation of plighted faith, as asserted in the resolution before us.

Now, I have already said I know of nothing to support this affirmation. Neither in the acts of cession, nor in the act of Con-

gress accepting it, nor in any other document, history, publication, or transaction, do I know of a single fact or suggestion supporting this proposition, or tending to support it. Nor has any gentleman, so far as I know, pointed out, or attempted to point out, any such fact, document, transaction, or other evidence. All is left to the general and repeated statement, that such a condition must have been intended by the States. Of all this I see no proof whatever. I see no evidence of any desire on the part of the States thus to limit the power of Congress, or thus to require a pledge against its exercise. And, indeed, if this were made out, the intention of Congress, as well as that of the States, must be inquired into. Nothing short of a clear and manifest intention of both parties, proved by proper evidence, can amount to plighted faith. The expectation or intent of one party, founded on something not provided for nor hinted at in the transaction itself, cannot plight the faith of the other party.

In short, I am altogether unable to see any ground for supposing that either party to the cession had any mental reservation, any unexpressed expectation, or relied on any implied, but unmentioned and unsuggested pledge, whatever. By the Constitution, if a district should be ceded to it for the seat of government, Congress was to have a right, in express terms, to exercise exclusive legislation, in all cases whatsoever. The cession was made and accepted in pursuance of this power. Both parties knew well what they were doing. Both parties knew that by the cession the States surrendered all jurisdiction, and Congress acquired all jurisdiction; and this is the whole transaction.

As to any provision in the acts of cession stipulating for the security of property, there is none, excepting only what I have already stated; the condition, namely, that no right of individuals to the soil should be construed to be transferred, but only the jurisdiction. But, no doubt, all rights of property ought to be duly respected by Congress, and all other legislatures.

And since the subject of compensation to the owners of emancipated slaves has been referred to, I take occasion to say, that if Congress should think that a wise, just, and politic legislation for this District required it to make compensation for slaves emancipated here, it has the same constitutional

authority to make such compensation as to make grants for roads and bridges, almshouses, penitentiaries, and other similar objects, in the District. A general and absolute power of legislation carries with it all the necessary and just incidents belonging to such legislation.

Mr. Clay having made some remarks in reply, Mr. Webster rejoined: —

The honorable member from Kentucky asks the Senate to suppose the opposite case; to suppose that the seat of government had been fixed in a free State, Pennsylvania, for example; and that Congress had attempted to establish slavery in a district over which, as here, it had thus exclusive legislation. He asks whether, in that case, Congress could establish slavery in such a place. This mode of changing the question does not, I think, vary the argument; and I answer, at once, that, however improbable or improper such an act might be, yet, if the power were universal, absolute, and without restriction, it might unquestionably be so exercised. No limitation being expressed or intimated in the grant itself, or any other proceeding of the parties, none could be implied.

And in the other cases, of forts, arsenals, and dock-yards, if Congress has exclusive and absolute legislative power, it must, of course, have the power, if it could be supposed to be guilty of such folly, whether proposed to be exercised in a district within a free State, to establish slavery, or in a district in a slave State, to abolish or regulate it. If it be a district over which Congress has, as it has in this District, unlimited power of legislation, it seems to me that whatever would stay the exercise of this power, in either case, must be drawn from discretion, from reasons of justice and true policy, from those high considerations which ought to influence Congress in questions of such extreme delicacy and importance; and to all these considerations I am willing, and always shall be willing, I trust, to give full weight. But I cannot, in conscience, say that the power so clearly conferred on Congress by the Constitution, as a power to be exercised, like others, at its own discretion, is immediately taken away again by an implied faith that it shall not be exercised at all.

THE COMMONWEALTH BANK, BOSTON.*

Mr. WEBSTER submitted, on the 17th of January, 1838, the following resolution: —

"*Resolved*, That the Secretary of the Treasury be requested to obtain information, and lay the same before the Senate, with as little delay as possible, respecting any payments of pensions, by the late pension agent of Boston, or of fishing bounties, recently made by the collector at Boston, in bills of the Commonwealth Bank of that city; and the whole amount of such payments; and that he further inform the Senate by what authority or direction payment of such pensions and bounties has been made in such bills; and whether any, and, if any, how much, of the public money of the United States is in deposit at said bank; and, if any of such money be therein deposited, at what time or times such deposits were made."

On this resolution Mr. Webster spoke as follows: —

IN presenting this resolution, I feel it to be my duty to call the attention of the Senate to the circumstances here alluded to, at the earliest opportunity, in order to the institution of an official inquiry into the facts of the case, and to obtain information with respect to the manner in which the duty of public officers has been discharged, in reference to the causes by which a severe loss has been made to fall upon a large number of industrious and meritorious citizens. I do not submit this resolution for inquiry on the ground of mere newspaper rumor. I have received letters from highly respectable private sources, informing me of the general facts of the case. I understand the case to be, that, at the period when the fishing bounties became

* Remarks made in the Senate of the United States, on the 17th of January, 1838, in relation to the Commonwealth Bank, Boston.

due, — money well and hardly earned, by a laborious, industrious, and worthy class of citizens, — application for payment was made to the collector at Boston, he being the officer charged on the part of the government with the duty and business of paying this money. That officer paid the fishermen, not as the law directs, in specie, or bills equivalent to specie, but in the bills of this now broken bank, or in checks upon it, which checks, of course, it was known would not be paid in specie. I have been given to understand that this officer refused to pay the bounty due in treasury-notes, when asked to do so; and that he refused also to pay the money in specie, although requested; and that, substantially and in effect, the parties entitled to payment were put to the option of taking the paper of this bank, or of taking nothing at all. This is my information.

I hold in my hand a letter from one of the most considerable fishing towns in the State, Marblehead, and I am thereby informed that, very shortly before this bank failed, that is, within a week or two, the money due from government to these fishermen was paid in the manner described, a large amount of it entirely in the bills and notes of this bank. The whole amount of bills of this bank paid out by the government officer on the part of the government is unknown to me. My letter states it at ten thousand dollars in Marblehead alone; and I have heard of similar payments in other towns; the whole amounting, as report says, to fifty or a hundred thousand dollars, and paid out when the bank was on the eve of a total crash, and within a few days of its failure.

Well, Sir, when the money in these large quantities had been paid out, the bank failed; and all that these poor fishermen have received in payment from the United States is now dead on their hands.

I wish that a proper inquiry should be made by Congress into these allegations, and for this object I have drawn the attention of the Senate to the circumstances of the case, with a view to the obtaining of information on two points; — 1st. As to the facts; how far the public officer of the government has been engaged in paying out the notes of this bank for the dues of the United States; and 2dly. As to the authority; that is, by what legal authority the officer of the United States government has made such payments, and whether it was done by the

direction of the Secretary of the Treasury, or whether it was permitted and allowed by him.

However much gentlemen may differ in opinion as to the resolution of 1816, whether that resolution is the law of the land, or whether it be a mere recommendation or admonition, as some have maintained, though I myself have always considered it to be a law, — however that question may be settled, I have thought that the law now existing, respecting payments by the government, is at least clear and indisputable; so that no one would venture to defend the act of the government, in paying in notes of banks known to be of less value than specie.

I beg to refer to the solemn enactment of Congress, made only two years ago. It will be found in the second section of the appropriation bill of the 14th of April, 1836, and is as follows: —

"Sec. 2. *And be it further enacted*, That hereafter no bank-note of less denomination than ten dollars, and that from and after the third day of March, Anno Domini eighteen hundred and thirty-seven, no bank-note of less denomination than twenty dollars, shall be offered in payment in any case whatsoever in which money is to be paid by the United States or the Post-Office Department; nor shall any bank-note of any denomination be so offered, unless the same shall be payable, and paid on demand, in gold or silver coin, at the place where issued, and which shall not be equivalent to specie at the place where offered, and convertible into gold or silver upon the spot, at the will of the holder, and without delay or loss to him; *Provided*, That nothing herein contained shall be construed to make any thing but gold or silver a legal tender by an individual, or by the United States."

Will any gentleman rise up and say, in the very teeth of the law, that the passing of these large amounts of notes, known not to be equivalent to specie, and immediately before the failure of the bank, was legal, was justifiable, either on the part of government or its officers? The law expressly says, that no public officer shall offer in payment bank-bills not equivalent to specie on the spot where they are offered. Will it be said that the United States officer in the present instance did not know that these notes were not equivalent to specie? This is not possible; he knew that this bank, like others, had not paid specie since May last, and that since that time its bills have not been equivalent to specie. Or will it be said he did not know the

law? Certainly the Secretary of the Treasury must have drawn the attention of all disbursing officers to this act of Congress.

I think it possible that it may be said, in excuse of this transaction, that these poor fishermen and pensioners took this now worthless money voluntarily, or at their own option. But whether the individual who is to be paid may be made willing to take such irredeemable paper or not, the law is direct and peremptory, and prohibits the officer from *offering* it. The consent f an individual, therefore, to take it, especially when he can get nothing else, will not justify that violation in any quarter. But what consent can that be esteemed, what voluntary taking is there in such cases, where a man, because he cannot get all that is due to him, is compelled to take part, rather than have none? What is there voluntary about it? This is coercion, and not consent. Congress has not yet admitted the notion, and I hope it never will, that the receipt of paper under par is voluntary, whenever officers of government can prevail on those who are entitled to the payment of money from the United States to take it, under the penalty of getting nothing. The letter, indeed, says that specie had been asked for, and was refused; but whether asked for or not, or whether the fishermen knew they were entitled to specie or not, it is equally the duty of the officer to refrain from offering these bills. I therefore wish to know by what authority government, or the officer of government, dispensed with the law; by what authority they repealed the statute, or disregarded it; by what license they obtained the dispensing power.

It is a notorious fact that no bank paper is, in the present state of the currency, equivalent to specie; it is refused by the government, which demands and obtains specie, or treasury-notes, for debts due to itself. How, then, can the collector of Boston be justified in passing bad money in fulfilment of one of the most sacred duties of the government, namely, the payment of the pensions of the aged and destitute Revolutionary pensioners?

It is said (though I do not myself know the fact to be so) that there was a large amount of United States money in that bank. This is also a subject on which I am desirous that some information should be given to the Senate, for I have heretofore understood that the public money had all, or nearly all, been drawn out of the bank. I wish to know when, and by whom,

this sum, now understood to be there, was deposited, or how it came there.

I do not wish to anticipate debate on the treasury system bill, which is to be brought forward a fortnight hence: but I will, nevertheless, make a few remarks upon two points which I wish, as being important truths, may be kept in the constant view of Congress and the country.

The first is, that every notion and idea of justice requires that there should be one mode of payment by the United States to all who are entitled to payments from government or its officers. There is, at present, no uniform medium. Even the treasury-notes, which are issued to public creditors, are not all of equal value. Some of them carry interest at the rate of five per cent., some at the rate of two per cent., and some at the rate of *one mill per cent.* An interest of one mill!! I cannot but consider it in the highest degree derogatory to the dignity and character of any government to create such a difference in its payments, whereby the public creditor receives a more or less valuable compensation, not according to his just demands, but according to his skill in making a bargain, according to the facility or difficulty of putting him off with a larger or smaller amount.

The other point which I wish now and always to urge is, that, in my opinion, however desirable it may be, as some imagine it, to have gold and silver for government use, so long as there is a paper circulation in the country it is not possible, in the nature of things, that government can so conduct its transactions with the people, as to keep itself safe, and keep them safe, while the general currency of the country is depreciated or deranged. In other words, there can be no safety, there can be no security nor confidence, even in transactions with government, except by reforming and restoring the whole currency of the country, and establishing a general and uniform medium of payment. It is not possible for government, with any practical utility, to have a sound currency *only* for itself; there must be such a currency for the people, and for the country generally. It will not be possible for the government to stand apart, and strengthen itself and take care of itself, and those who deal with it, and secure its own safety and theirs, while it neglects to provide for the safety, security, and well-being of the whole country.

I will add nothing to these remarks, further than to say, that

in this case, and in all similar cases, if loss shall turn out to have been suffered by individuals in consequence of illegal payments made by officers of government, or in consequence of payments made in a depreciated medium, if the officers themselves are not liable to make it good, I, for one, shall vote to make good every such deficiency, to the utmost farthing, out of the treasury.

I now, Sir, read to the Senate one of the letters to which I have alluded, and it is at the service of every Senator to see and examine for himself.

"SIR: You will, I am satisfied, excuse the liberty I take in addressing you these few lines, the subject being of the utmost importance to my fellow-townsmen. The government have lately paid to the fishermen of this town their bounty money, amounting to something like $20,000. Something like $ 10,000 of this amount was paid in Commonwealth Bank bills, the remaining $ 10,000 in bills of other banks. Now, Sir, just look at the distress that is likely to come upon this poor town by this specie-paying government of ours. The Commonwealth Bank has stopped, and $ 100 of its notes would not buy a loaf of bread. The collector of Boston was solicited by a number of gentlemen of this town for specie, or even treasury-notes. No; he would pay it in no other way but by a check on the Commonwealth Bank. This, Sir, is a hard case for the poor fishermen of this town, and I am satisfied you will do what lies in your power (if any thing can be done) for their relief. The poor widow and Revolutionary soldier come in also for their part in the distress of the town; many of them, who have received pensions, have been paid in Commonwealth Bank bills, and, having full reliance upon the government, have kept the money they had paid them by the government, believing that the government would not pay them in bad money.

"I am, dear Sir, your obedient servant."

IN SENATE, *February* 6, 1838.

MR. WEBSTER rose to move that the report of the Secretary of the Treasury, in answer to the resolution of the Senate, calling for information respecting the amount of the public moneys in the Commonwealth Bank at Boston, be referred to the Committee on Finance.

In this report, said Mr. Webster, the Secretary says that no instructions were ever given by the Treasury Department to tender bank-notes of any denomination to public creditors or officers; and he says, at the same time, that it was impracticable to pay all the public creditors, especially on the sea-board, in specie, as sufficient could not be collected. The law, therefore, has been plainly one way, and the practice the other. The act of Congress says, that no bills not equivalent to specie shall be *offered* in payment; and I commend this report to the particular and careful perusal of those who suppose they can maintain a specie currency for government, while they suffer the general paper currency of the country to be depreciated. In my opinion, the state of things detailed in this report is a correct sample, or a foretaste, of what we shall experience, on a large scale, when the sub-treasury bill shall have become a law, and a nominal specie currency, for revenue purposes, shall have been established. Although the law now existing is precise and positive, that government officers shall pay all public creditors in specie, or bills equivalent to specie, and shall offer them nothing else, yet the Secretary says that it has been impracticable to obtain specie for this purpose, either of the banks or the merchants; and this he says at a time when there is supposed to be a large quantity of specie in the country. Here, then, is exactly such a state of things as we propose to establish by sub-treasuries and an exclusive specie currency. We see here precisely how the system will work. While there are banks (and banks there will be), the specie will inevitably get into the banks; and whenever any disaster happens to the banks, so that they suspend specie payments, neither the government nor the merchants can get the specie out. Dues to government, therefore, will not be received in specie, and dues from government will not be paid in specie. On the other hand, if the banks maintain their credit, and redeem their notes in specie on demand, an exclusive specie currency will be useless and unnecessary. The result of all will be, that an exclusive specie currency will be always either unnecessary or impracticable. It will be a superfluity or an impossibility.

The following sums of public money appear, by the Secretary's report, to be now in deposit in the Commonwealth Bank, at Boston.

[redacted]

1st. The sum standing to the credit of the treasurer of the United States, ...	$ 39,639
2d. Sum reported as standing to the credit of the collector,	65,941
3d. Amount to the credit of the late pension agency, . .	154,848
4th. Amount standing to the credit of the commissioners for building the custom-house, ...	70,000
5th. Amount to the credit of Major Craig, Ordnance Department, ...	1,119
6th. Amount to the credit of the Post-Office Department, .	7,644
7th. Amount to the credit of the Paymaster-General, . .	346
Making a total of	$ 339,537

The Secretary represents these deposits to have been made, generally, before the suspension of specie payments; but that $ 150,000 was received by the bank in October and December last, on drafts which had been issued by the treasury in favor of the bank before the suspension. No money has been directed to be deposited in the bank since the suspension. It is not stated what security exists for the payment of this large sum, or what is the chance of its payment.

As to the manner in which the bank paid pensions and bounties, I find attached to the report a letter from the president of the bank, in which he says, that "in all cases where the bills of this bank, or any other bank, have been paid by this bank to pensioners, or their attorneys, they were voluntarily received by them"! The nature of these voluntary receipts of payments in depreciated paper has been sufficiently shown by the letter and the affidavit which I have laid before the Senate. The affidavit seems not to be deficient in facts.

The statement is: —

"I, Asa Pickering, of Bellingham, in the Commonwealth of Massachusetts, residing at present in Boston, as a member of the Legislature, on oath do declare and say, that, on the third day of October now last past, I called at the office of the Pension Agent in the city of Boston, to receive a pension due to my father, Benjamin Pickering, for Revolutionary services. He already had on hand a quantity of the bills of the Commonwealth Bank, and instructed me to procure other money, if possible. I called, and was requested to step into a room to make the necessary affidavit, for which I was charged, and paid in specie, twenty-five cents. I then received a check for sixty-three dollars, and was

directed to present the check at the opposite counter. I did so, and had tendered to me a fifty dollar bill of the Commonwealth Bank, also a ten and a three dollar bill of the same bank. I declined receiving them, and stated that I wanted something better. I told them at least I wanted a little specie; I should like the thirteen dollars in specie. They told me I must take that or nothing. I asked them for the ten or the three in specie; both were refused. I then asked at least for the twenty-five cents in specie which I had just paid, and it was refused. I then read one of their bills to them, and asked if they would pay out [illegible] in nothing but lies. I was obliged to take [illegible] my wishes and instructions.

"ASA PACKER."

This, too, is a fair specimen of what will happen hereafter when we shall have nominally a system of exclusive specie payments and receipts. Forty statutes could not more distinctly and peremptorily than the present law forbids all payments in depreciated currency. Yet here it is admitted, both by the disbursing officer and by the Secretary himself, that such depreciated currency has been offered in payment, and received: although the very offering of them, that is, the act of proposing to make payments in such notes, is in the teeth of the act of Congress. So it will be hereafter. The law will be positive that nothing but gold and silver shall be offered: yet paper will be offered and often taken: and just such contests will arise as that which arose in this case: the government officer insisting that the paper was voluntarily received, and the party resisting it on the other hand insisting, and making oath, that he received the receipt of it as long as he could, and took it at last simply because he could get nothing else. I think any man must be discouraged who does not perceive that occurrences of this sort will be continually happening under a system in which the government uses or professes to use, one currency, and the people another.

But, Sir, there is another important matter connected with this report, to which I wish to call the attention of the Senate. It is known that, during the existence of the Bank of the United States, the United States' revenues were kept by that bank without cost or charge: and as the bank was a safe depositary, no losses happened to government or to individuals. When the bank charter expired, Congress was called on to make some

other provision for paying pensions, and the act of the 20th of April, 1836, was passed. That act provides that, in future, "payments of pensions shall be made by such persons or corporations as the Secretary of War may direct, *but no compensation or allowance shall be made to such persons or corporations for making such payments, without authority of law.*" This act was passed under that clause of the Constitution which authorizes Congress, by law, *to vest the appointment of such inferior officers as they think proper in the heads of departments.* Under this law the Secretary of War appointed these officers, and a list of them has been recently sent by him to the Senate. It will appear from the report of the War Department, that, like other disbursing officers, they have been called on to give official bonds; and there is no manner of doubt that, to all intents and purposes, they are officers under the government of the United States.

But now as to their *pay.* The act of the 20th of April, 1836, creating the office and providing for the appointment of the officers, declares, as I have already said, that no allowance or compensation shall be made to them, *without authority of law.* Now, Congress has passed no further law on the subject; and yet how stands the matter of their pay?

It will be remembered that, in 1834, the President, or Secretary of War, before the bank charter expired, undertook to transfer the pension funds from the Bank of the United States to the deposit banks; and on that occasion those deposit banks were told, as will be seen by this report, *that, in consideration of the benefits which they would derive from the deposits,* no commission or salary would be allowed. The same course was adopted after the act of 1836 passed; so that, from that time to the present, pension agents, appointed by the Secretary of War, get their pay by the use of the government funds in their hands. And I find, by inquiry at the proper source, that the general rule is, to advance the necessary funds six months before they will be needed; so that the agent has the use of the money for that period; and when the time comes for paying it to the pensioners he pays it, and immediately receives from the treasury an advance for the next six months; so that he has, the whole year round, the use of a sum of money equal to one half the whole annual amount of pensions paid at his office. For in-

stance, the whole annual amount of pensions paid at Boston is three hundred and twenty thousand dollars, or thereabouts. One half of this sum is one hundred and sixty thousand dollars; and the agent, as his compensation for paying the pensions, actually enjoys the use of this sum the whole year. Suppose the use of the money to be worth six per cent. per annum, the compensation thus made to the pension agent in Boston is more than nine thousand dollars.

So in New Hampshire, where there are two pension agencies, one at Portsmouth, and one at Concord. At the Portsmouth agency, thirty-three thousand dollars, or thereabouts, are annually paid out. The agent, therefore, has usually on hand one half of this sum, say fifteen thousand five hundred dollars, the interest of which would be nearly a thousand dollars. At the Concord pension office, the amount of annual payments is sixty-six thousand dollars. One half of this sum being usually on hand, the agent receives for discharging the duties of his office the use of that one half, say of thirty-three thousand dollars, which, at the rate of six per cent. per annum, amounts to nineteen hundred or two thousand dollars. These sums are taken from official statements, and I believe are correct; and the other general facts are obtained from authentic sources.

It will probably strike the Senate, in the first place, that these rates of compensation are exceedingly large, especially in these days of professed economy and reform; and, in the next place, all will admit that this mode of making compensation is the worst in the world, as it keeps the funds of the government always at hazard. How this mode of making compensation, or this amount of compensation, can be reconciled to the words of the act of Congress, which declare that there shall be no compensation without authority of law, I hope some gentleman will undertake to explain.

In most cases, but I believe not in all, the list will show these agents are presidents of State banks; but the appointments, nevertheless, are personal appointments, and the banks themselves are not responsible for the agents' fidelity. As I have already said, the agents, like other disbursing officers of government, give bonds for the due discharge of the duties of their office. I trust, Sir, that the Committee on Finance

will see the necessity of some further legal provision on this subject.

Since I am speaking on this topic, I will take leave to make a remark or two on a personal matter. The Globe of Saturday, still pursuing a course of meddling with the private concerns of public men, which course, nevertheless, it admits is exceedingly despicable, reiterates charges of my having had paper dishonored at this Commonwealth Bank. The obvious object of this, as of the former article, it is evident, is to hold out an appearance that I owe the bank, or have owed it in times past. I think it very likely, that, by the time this statement of the Globe gets a hundred miles from Washington, it will be so amplified as to represent me as an acknowledged debtor to the bank to a great amount; and by the time it gets over the mountains, the failure of the bank will be mainly ascribed, very possibly, to its loans to me. I repeat, therefore, that I never owed the bank a dollar, so far as I remember, and never had any pecuniary transaction with it whatever.

The statement is, that a bill drawn by me, and accepted, was sent to the bank for collection, and not duly paid by the acceptor. It was of course returned upon the drawer, and duly paid and taken up by him. All this is very unimportant and innocent; but it is stated as if with studious design to represent me as a debtor to the bank; whereas, in the first place, the bank had no interest in it whatever; and, in the second place, it was duly paid by the drawer on the acceptor's neglect. As to any acceptance of my own, sent to that bank for collection, being protested, I never heard of any such occurrence. If such a thing happened, it must have been accidental, and owing to some mistake as to the day, which was seasonably corrected. Nor can it be true that any note or bill with my name on it was handed over to another bank on the failure of this Commonwealth Bank, unless it was some dead note or bill which had been already paid to those who were entitled to receive payment. This obvious purpose of representing me as a debtor to the bank, or as ever having been a borrower at it, is founded in sheer misrepresentation and falsehood.

I perceive that the directors, or officers, of this bank have been busying themselves to help out the statements of the Globe; yet no one of them says I ever owed the bank a dollar in the world.

They might, I think, be better employed. It has been stated publicly that these officers have helped themselves to loans, from their own bank, to an amount exceeding the amount of all its capital, and then failed, bank and all, leaving a prodigious mass of unredeemed paper upon the hands of the public. I know not how this may be; but until the charge is cleared up, one should think they might find better employment than in attempting to bolster up slanderous imputations against their neighbors, and attacking people who have not the misfortune to owe them any thing.

In reply to Mr. Niles, Mr. Webster remarked: —

The law says, in so many words, that these pension agents shall receive no compensation without provision by law; and the Secretary, in making compensation, has of course done it without law. I have a right to the fact. The Secretary makes the appointment, generally, of the president or some other officer of a bank, and the appointment is entirely personal; the bond is personal; the bond is directly to the United States; and this proves conclusively that the officer is an officer of the United States. No bank is named in the bond; in those which I have seen, and I have obtained the common form from the office, I do not find that the agent is named or described as president or cashier of any bank. The appointment is simply of A. B. as agent for paying pensions in a certain place; and A. B. gives his own bond directly to the United States, with sureties, for the faithful discharge of his duties. If the agent, in any case, be connected with any bank, and desire to leave the money on deposit in that bank, instead of using it himself, that is matter of arrangement between him and the bank. All this makes no difference; it does not diminish the amount of compensation; it does not change the nature of the office. The agent is an officer appointed by authority of law, and acting under bonds to the United States, and receiving, as it appears by this report, a very large compensation. I have nothing to do now with the deposit system; all I say is, that this kind of management ought not to go on, making, as every one must admit, a very great allowance for compensation, far too great. And what occasion is there of hazarding all this money? I speak,

however, only of the existing state of things, as a subject which the Senate must perceive requires a remedy. There is a personal appointment of a certain officer by law; and therefore there is in effect a personal emolument to the amount which I have stated; at least it is as large as I have stated it to be at Boston, and may be larger elsewhere.

THE RIGHT OF PREËMPTION TO ACTUAL SETTLERS ON THE PUBLIC LANDS.*

THE following bill to grant preëmption rights to actual settlers on the public lands being on its passage, viz.:

"A BILL TO GRANT PREËMPTION RIGHTS TO SETTLERS ON THE PUBLIC LANDS.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That every actual settler of the public lands, being the head of a family, or over twenty-one years of age, who was in possession, and a housekeeper by personal residence thereon, on or before the 1st day of December, 1837, shall be entitled to all the benefits and privileges of an act entitled 'An Act to grant preëmption rights to settlers on the public lands,' approved May 29th, 1830; and the said act is hereby revived and continued in force two years, *Provided*, That where more than one person may have settled upon and cultivated any one quarter-section of land, each one of them shall have an equal share or interest in the said quarter-section, but shall have no claim, by virtue of this act, to any other land: *And provided, always*, That this act shall not be so construed as to give a right of preëmption to any person or persons in consequence of any settlement or improvement made before the extinguishment of the Indian title to the land on which such settlement or improvement was made, or to any land specially occupied or reserved for town lots, or other purposes, by authority of the United States: *And provided further*, That nothing herein contained shall be construed to affect any of the selections of public lands for the purposes of education, the use of salt springs, or for any other purpose, which may have been or may be made by any State, under existing laws of the United States; but this act shall not be so construed as to deprive those of the benefits of this act, who have

* Remarks made in the Senate of the United States, on the 29th of January, 1838, on the Preëmption Bill.

however, only of the existing state of things, as a subject
the Senate must perceive requires a remedy. There i
sonal appointment of a certain officer by law; and
there is in effect a personal emolument to the amou
have stated; at least it is as large as I have stated
Boston, and may be larger elsewhere.

inhabited, according to its provisions, certain fractions of the public lands within the land district of Palmyra, in the State of Missouri, which were reserved from sale in consequence of the surveys of Spanish and French grants, but are found to be without the lines of said grants";

Mr. Webster rose and spoke as follows: —

WHATEVER opposition may be made to this bill, in my opinion some provision of this nature is necessary and proper. I have therefore supported it, and I shall now vote for its final passage.

Although entirely indisposed to adopt any measure which may prejudice the public interest, or trifle with this great subject, and opposed at all times to all new schemes and projects, I still think the time has come when we must, from necessity, propriety, and justice, make some provision for the existing case. We are not now at the point when preëmption rights are first to be granted; nor can we recall the past. The state of things now actually existing must be regarded. To this our serious attention is summoned. There are now known to be many thousands of settlers on public lands, either not yet surveyed, or of which the surveys are not yet returned, or which, if surveyed, are not yet brought into market for sale.

The first question naturally is, How did they come there? How did this great number of persons get on the public lands? And to this question it may be truly answered, that they have gone upon the lands under the encouragement of previous acts of Congress. They have settled and built houses, and made improvements, in the persuasion that Congress would deal with them in the same manner as it has, in repeated instances, dealt with others. This has been the universal sentiment and expectation. Others have settled on the public lands, certainly with less encouragement from acts of Congress than these settlers have had, and yet have been allowed a preëmption right. These settlers, therefore, have confidently looked for the same privilege.

Another circumstance is fit to be mentioned. Very large purchases of the public lands are known to have been made in 1835 and 1836. These purchases exceeded the quantity necessary for actual settlement; and they were made, in many cases, in large tracts, by companies or by single proprietors, who

purchased for purposes of investment, and with a view to retain the lands until their value should be enhanced by the general settlement and improvement of the country. These purchases would be, of course, of the best and freshest lands in the market; that is, they would be in the most recent surveys, or, in other words, in the surveyed districts most advanced in the interior. Now, I have understood from good authority, that it has often happened in the Northwest, (of the Southwest I know little,) that persons disposed to purchase and settle on the frontier have, in many instances, found themselves unable to buy to their satisfaction, either of government or individuals. Government had sold the best lands to companies or to individual proprietors, and these last were disposed to keep, and not to sell; or they or their agents were either unknown, or were living in distant parts of the country, so that application to purchase could not readily be made to them.

These circumstances, there can be no doubt, have created a new incentive to pass beyond the surveys set down on the public domain, and trust to Congress for a preëmption right, such as has been granted in previous instances. The result of these causes is, that settlements have become quite extensive, and the number of people very large. In that part of Wisconsin which lies west of the Mississippi, there are supposed to be from thirty to fifty thousand inhabitants. Over this region Congress has extended civil government, established courts of law, and encouraged the building of villages and towns; and yet the land has not been brought into the market for sale, except it may be small quantities for the sites of villages and towns. In other parts of Wisconsin a similar state of things exists, especially on and near the border of Lake Michigan, where numerous settlements have been made and commercial towns erected, some of them already of considerable importance, but where the title to the land still remains in the government. Similar cases exist in Indiana, Illinois, and Michigan, and probably also in the Southwestern States.

Now the practical question is, What is to be done in these cases? What are we to do with those settlers, their improvements, and the lands on which they live? Is there any one who would propose or desire that these lands should be put up at open auction, improvements and all, and sold to the highest

bidder, without any regard whatever to the interest or protection of the settlers? For my part, I could propose no such thing, nor by any means consent to any such thing.

Nor do I suppose that there could be such an auction, and that other persons could attend and bid at it freely, and overbid the actual settlers for their own settlements and improvements, without disturbance and violation of the public peace. Nor would a dollar of money, in my judgment, be realized by the treasury by such a course of proceeding, beyond what would be received for the same lands under this law. As to the general justice of the bill, its policy, or the degree of indulgence which it holds out to those who have become settlers, it ought to be remembered,

1. That it applies only to those who have now already settled on the public lands. And I am quite willing to concur with others in carrying out the recommendations of the President's message, by adopting such measures, for the future, as may be thought wise and reasonable, and as shall prevent the recurrence hereafter of any necessity for laws like this.

2. The bill makes no donation or gratuity. It grants only a preëmption right; a right of previous purchase, at the price for which the greater part of the public lands has been, and now is, actually sold.

3. It gives this right only to the extent of one quarter-section; not more than a reasonable quantity for a farm, in the estimation of the inhabitants of these new and vast regions.

4. It gives the right only to heads of families, or householders, actually settled and residing on the tract.

And, in my opinion, it is much in favor of this bill, that what it does grant it grants (where the requisite proof is made out) at once and for ever, without mischievous qualifications, and conditions subsequent, such as formed part of the bill of last year.

It has been proposed to amend this bill so as to limit its benefits to native or naturalized citizens of the United States. Although I have heretofore been disposed to favor such a proposition, yet, on the whole, I think it ought not to prevail; because such a limitation has been altogether unknown in our general system of land sales; and to introduce it here, where we are acting on rights already acquired, would be both invidious and unjust.

It has been proposed, also, so to amend the bill as to require that the settler, in addition to the dollar and a quarter per acre, should pay one half the actual value of the land above that sum; this value to be ascertained by appraisers, appointed by the register of the land-office. I could not agree to this amendment; because, in the first place, we have never adopted the principle of selling lands on appraisement; and, secondly and mainly, because, if these settlers have had any ground or reason to expect a preëmption right from Congress (which is the substantial foundation of the bill), they have had, and now have, reason to expect it on the same terms on which it has been granted to others.

Mr. President, that there may be some undeserving persons among these settlers, I do not doubt. That the advantages of this bill may be enjoyed, in some cases, by those who are not actual settlers, with the honest, *bonâ fide* purpose of permanent residence, is very probable. But I believe the great majority of the cases to which the bill will apply will be such as ought to be relieved. I believe the bill is the readiest way of quieting these titles and possessions, which the public interest requires should, in some way, be quieted without further delay. Indeed, no course is proposed, but either to pass this bill, or to bring the lands at once to public auction, open to the biddings of all. This last course, I am persuaded, would result in no gain whatever to the treasury, whilst it might be attended with serious inconvenience to the public, and would be sure to throw whole neighborhoods, villages, and counties into a state of much excitement, much perplexity, and much distress. Both for the general interests of the country, and for the interest and protection of the settler, I am of opinion that the bill ought to pass.

In answer to Mr. Clay, Mr. Webster said: —

Nothwithstanding the surprise which it has pleased the honorable member from Kentucky to express at my support of this bill, I shall continue that support; but I do not feel it necessary to go into any elaborate defence of my vote. The bill, it is well ascertained, will pass the Senate by a large majority. Of its fate elsewhere I know nothing, either certainly or probably. But since no doubt is entertained of its passage here, I have desired, and still desire, only to say so much as may show the ground of my own opinion in its favor.

Sir, the difference between the member from Kentucky and myself, on this occasion, is plain and distinct. It is precisely this.

He is altogether against the preëmptive right. He is for carrying into operation the law, as it stands, and for giving it effect over the lands on which these settlers live, in the same way as over other public lands. He is for putting all these lands up to open auction, and selling them to the highest bidder, letting the settler take the consequence. He says there should be an auction, and a free auction; and he argues, with that consistency and cohesion of ideas which belong to him, that if there is to be a public auction, as he insists there ought to be, then there must be, and ought to be, a perfectly free competition; that it should be as open to one man to bid as another; that no man, or men, ought to be privileged or favored; that it is ridiculous to talk of an auction at which one man may bid and another may not; or an auction at which some bidders are told that others must have preference. He, therefore, is for a free sale, open to every body, and to be conducted in that manner which shall insure the receipt of the greatest sum of money into the treasury.

Now, I say at once, plainly and distinctly, that this is not my object. I have other views. I wish, in the first place, to preserve the peace of the frontier; and I wish, also, to preserve and to protect the reasonable rights of the settlers; because I think they have rights which deserve to be protected. These are my objects. Sir, if we could order an auction here, in this city, or elsewhere, out of all possible control of the settlers, and far from all fear of any influence of theirs, and could here sell the lands they live on, and their improvements, for their full value, and put the proceeds of the whole into the treasury, it would be the very last thing I should ever do. I have no wish to make gain and profit out of the labors of these settlers, and carry that gain into the treasury. I did not suppose any man would desire that. I did not suppose there was any one who would consent that the increased value of these lands, caused by the labor, the toil, and the sweat of the settlers, should be turned to the advantage of the national treasury. Certainly, Sir, I shall oppose all proceedings leading to such a result. Yet the member from Kentucky has nothing to propose, but to sell the lands at auc-

tion for the most they will bring, at a sale which he says ought to be perfectly free and open to every body, and to carry the proceeds into the treasury. Let the sales go on; that is his doctrine. Let the laws take their course, he says, since we live under a government of laws. Have a sale, make it free and open, and make the most of it. Let the government take care that all persons who wish to bid shall be at equal liberty to do so; and that no combination, no privilege, no preëmption, be suffered to exist.

Now, Sir, in my opinion, all this is what we cannot do, if we would; and what we ought not to do, if we could. I do not believe we can have an auction, under existing circumstances, such as the gentleman insists upon. The known condition of things renders it impossible. The honorable member thinks otherwise. He will not agree, he says, that the President, with the militia and the army, cannot protect the authorities in maintaining a fair and open sale. Sir, is it discreet, is it prudent, to refer to such a course as that? Is it not greatly wiser, and greatly better, to remove the occasion, which may be done without injury to the government, and in perfect consistency with the rights of others, than to think of such measures as have been suggested? For one, I disclaim all such policy. I place my support of the bill upon the indispensable necessity of doing something; upon the impolicy of longer delay; upon the fair claims of the settlers to all which this bill proposes for their benefit; and upon the impolicy, the injustice, and, I may say, the impossibility, of other courses which have been suggested.

The honorable member recalls our recollection to the fact, that the Senate has refused to adopt any prospective measure to prevent this evil for the future. It has done so, so far as the vote on the proposed amendment went. But what then? Because a majority is not inclined, now, to provide for the future, is that a reason why we should make no provision for the present?

Sir, the true tendency of this bill will be to prevent, or to mitigate, those scenes at the public sales, which have been so often alluded to. If you pass this bill, the settler will go to the land office, prove his preëmption right, and get his certificate. He will then have no business, so far as his homestead is concerned, at the public sales. He will be quieted in his possession, and at peace. If you do not pass it, he must attend the public sales;

the whole country must be there; every man must be present, because every man's home is to be sold over his head; and how is it possible that much feeling and great excitement should not prevail among a large multitude assembled for such a purpose? Business, to be conducted under such circumstances, can take but one course; and we all know what that is. This bill diminishes temptation to form combinations, or to do any unlawful or irregular act. It is a bill of peace and repose. It is to secure men in their possessions; to quiet them in their own homes; to give to them that sense of security, that consciousness of safe ownership, which makes men's houses and homesteads dear and valuable to them.

In further reply to Mr. Clay, Mr. Webster said: —

I do not intend, Mr. President, to go further into this debate than is necessary to keep my own course clear. Other gentlemen act upon the result of their own reasoning; I act on the result of mine, and wish to explain and defend that result, so far as it may require defence or explanation.

I have placed this bill on the fair right of the settler, founded on the encouragement which Congress has held out by previous laws. I have asked whether this right of the honest, *bonâ fide* settler is to be disregarded and sacrificed. The honorable member from Kentucky now answers, that this right will be amply protected at the sale; that nobody will bid against an honest, *bonâ fide* settler; that at the sale all these cases will be carefully sifted and examined, and justice done to each case respectively. Why, Sir, this is a good deal inconsistent, I think, with the character of those sales, as we have heard them described. If what has been said of them be true, they are the last places, and the last occasions, for any thing to be sifted or examined. The gentleman himself has said, that at these sales it is enough to cry out "Settler's right!" to prevent all interference. No, Sir; it is not at these sales that sifting and examination are to be had. Examination can only be had at the land office, before public officers, on sworn proofs, and according to the provisions of this bill. Such an examination as that can be had, if the officers will do their duty; and the result will do justice to the government, and justice to the settlers.

Much has been said of the general character of these settlers.

I have no extensive information, Sir, on that point, and had not intended to say any thing upon it. But it has so happened that I have recently been in the Northwest, and have met, for a short time, with many of these settlers; and, since they have been spoken of here with so much harshness, I feel bound to say that, so far as my knowledge of them goes, they do not deserve it. Undoubtedly, Sir, they are trespassers in the contemplation of law. They know that very well. They are on the public lands without title; but then they say that the course of the government heretofore has been such as to induce and encourage them to go where they are, and that they are ready and willing to do all that government has required from others in similar circumstances; that is, to pay for the lands at the common price. They have the general character of frontiersmen; they are hardy, adventurous, and enterprising. They have come from far, to establish themselves and families in new abodes in the West. They appeared to me to be industrious and laborious; and I saw nothing in their character or conduct that should justly draw upon them expressions of contumely and reproach.

In answer to Mr. Davis, Mr. Webster said: —

As I have the misfortune, on this occasion, to differ with my colleague, (for whom I entertain so much deference and so much warm regard, that it is always painful for me to differ with him,) I might naturally be supposed to be desirous of replying to his remarks at some length. At this late hour, however, I shall forego that privilege. I will confine what I have to say to two or three points.

In the first place, I wish to say that I cannot concede to my colleague, and those who act with him on this occasion, the vantage-ground which he and they seem to claim. I cannot agree that they only are acting for the whole people; and that we, who are in favor of this bill, are acting for a few only. My opinion is, and my ground is, that the interest of the whole country, as well as the just protection of the settlers, requires the passage of this bill. The whole country has an interest in quieting these claims; the bill proposes to quiet them, and, in that respect, is for the advantage of the whole country.

In the next place, I wish to observe that I do not think it just

to say of this bill, that it proposes to give away the public lands; to exercise a gratuitous bounty to the settlers; to make a mere gift of the public property to a few, at the expense of the many. The bill proposes no gift at all; it bestows no gratuitous bounty. It grants exactly what it proposes to grant, and that is, a right of purchase, a preëmption; the privilege of retaining the quarter-section upon which each man is settled, paying for it the common price. This the bill grants, and it grants no more.

My worthy colleague seems to think this bill opposed to the policy upon which we supported the land bill some sessions ago. I do not think so. I think it quite consistent with that policy. If the land bill had passed, and were now a law, and in full operation, I should still support this bill as the best mode of selling, not giving away, but of selling, the lands to which the bill applies, and getting payment for them. If the proceeds of the public lands were to go to the States, I should still think that the true interest of the States required that this bill should become a law.

My colleague complains, also, that the bill holds out great inducements to foreigners to come among us and settle on the public lands. He says it is an invitation to the nations of Europe to open their workhouses and send hither all their paupers. Now, Sir, in all candor, is this the just character of the bill? Does it propose any change in our law in respect to foreigners? Certainly it does not. A foreigner could always come here; he could always buy land at the minimum price; he stood always on an exact footing of equality, in this particular, with our own citizens. And would my worthy colleague now make a difference by this bill? If two settlers are found on the frontier, each on his own quarter-section, each with a family, and each living under a roof erected by his own hands, and on the produce of fields tilled by his own labor, the one a citizen, and the other a foreigner not yet naturalized, would my colleague make a difference, and confirm the settlement of one, and break up that of the other? No, I am sure, Sir, he would do no such thing. His sense of justice and his good feeling would revolt from such a course of action as quick as those of any living human being.

Mr. President, there are some other remarks of my colleague to which I should have been glad to make some answer. But I will forbear. I regret, most exceedingly, that we differ on

this occasion. I know he desires to do justice to those settlers and to all others; and I cannot but persuade myself that on further reflection, he will be of opinion that some such measure as the present ought to be adopted: because there is no man who to a high regard for the public interest unites a greater sense of the justice which is due to individuals.

THE SUB-TREASURY.*

THE measure introduced at the first (extra) session of the Twenty-fifth Congress, for the receipt, custody, and disbursement of the public money, having failed to become a law, was revived, with some alterations, at the ensuing session. On the 16th of January, 1838, a bill was introduced into the Senate by Mr. Wright of New York, entitled, "An Act to impose additional duties as depositaries on public officers: to appoint receivers-general of public money; and to regulate the safe-keeping, transfer, and disbursement of the public money of the United States." This bill established what has been called the *Sub-treasury* system. It came up for a second reading on the 30th of January, and on the next day it was opposed by Mr. Webster in the following speech.

"LET the government attend to its own business, and let the people attend to theirs."

"Let the government take care that it secures a sound currency for its own use, and let it leave all the rest to the States and to the people."

These ominous sentences, Mr. President, have been ringing in my ears ever since they were uttered yesterday, by the member from New York. Let the government take care of itself, and let the people take care of themselves. This is the whole principle and policy of the administration, at the present most critical moment, and on this great and all-absorbing question of the currency. Sir, this is an ill-boding announcement. It has nothing of consolation, of solace, or of hope in it. It will carry through all the classes of commerce and business nothing but greater discouragement and deeper fears. And yet it is but rep-

* A Speech delivered in the Senate of the United States, on the 31st of January, 1838.

etition. It is only a renewed exhibition of the same spirit which was breathed by the message, and the bill of the last session, of which this bill is also full, and which has pervaded all the recommendations and all the measures of government since May. Yet I confess that I am not, even yet, so familiar with it, so accustomed to hear such sentiments avowed, as that they cease to astonish me. I am either groping in thick and palpable darkness myself, in regard to the true objects of the Constitution, and the duties of Congress under it, or else these principles of public policy, thus declared, are at war with our most positive and urgent obligations.

The honorable member made other observations indicative of the same general tone of political feeling. Among his chosen topics of commendation of the bill, a prominent one was, that it sheltered the administration from that shower of imputations, as he expressed it, which would always beat upon it, as it beats now, when disasters should happen to the currency. Indeed! And why should the administration, now or ever, be sheltered from that shower? Is not currency a subject over which the power and duty of government extend? Is not government justly responsible for its condition? Is it not, of necessity, wholly and entirely under the control and regulation of political power? Is it not a matter, in regard to which the people cannot, by any possibility, protect themselves, any more than they can, by their own individual efforts, supersede the necessity of the exercise by government of any other political power? What can the people do for themselves to improve the currency? Sir, the government is justly answerable for the disasters of the currency, saving always those accidents which cannot at any time be foreseen or provided against. It is at least answerable for its own neglect, if it shall be guilty of it, in not exercising all its constitutional authority for the correction and restoration of the currency. Why does it, how can it, shrink from this responsibility? Why does it retreat from its own duty? Why does it seek, not the laurels of victory, not the reputation even of manly contest, but the poor honors of studied and eager escape? Sir, it never can escape. The common sense of all men pronounces that the government is, and ought to be, and must be, answerable for the regulation of the currency of the country; that it ought to abide, and must abide,

the peltings of the storm of imputation, so long as it turns its back upon this momentous question, and seeks to shelter itself in the safes and the vaults, the cells and the caverns, of a sub-treasury system.

But, of all governments that ever existed, the present administration has least excuse for withdrawing its care from the currency, or shrinking from its just responsibility in regard to it. Its predecessor, in whose footsteps it professes to tread, has interfered, fatally interfered, with this subject. That interference was, and has been, the productive cause of our disasters. Did the administration disclaim power over the currency in 1833, when it removed the deposits? And what meant all its subsequent transactions, all its professions, and all its efforts for that better currency which it promised, if in truth it did not hold itself responsible to the people of the United States for a good currency? From the very first year of the late administration to the last, there was hardly a session, if indeed there was a single session, in which this duty of government was not acknowledged, promises of improvement put forth, or loud claims of merit asserted for benefits already conferred. It professed to erect the great temple of its glory on improvements of the currency. And, Sir, the better currency which has been so long promised was not a currency for the government, but a currency for the people. It was not for the revenue merely, but for the use of the whole commerce, trade, and business of the nation. And now, when the whole industry, business, and labor of the country are harassed and distressed by the evils occasioned by its own interference, government talks, with all possible coolness, of the great advantage it will be to adopt a system which shall shield itself from a thick-falling shower of imputations. It disclaims, it renounces, it abandons its duties, and then seeks an inglorious shelter in its professed want of power to relieve the people.

We demand the better currency; we insist on the fulfilment of those high and flattering promises; and surely there never was a government on the face of the earth that could with less propriety resist the demand; yet we see it seek refuge in a daring and heartless denial of the competency of its own constitutional powers. It falls back from its own undertakings, and flatly contradicts its own pretensions. In my opinion, it can

find no refuge where the public voice will not reach it. There can be no shelter, while these times last, into which government can retreat, wherein it can hide and screen itself from the loud voice of the country, calling upon it to come forth to fulfil its promises; or at least, now that these promises are all broken, to perform its duties. The evils of a disordered currency are evils which do not naturally correct or cure themselves. Nor does chance, or good luck, often relieve that community which is suffering under them. They require political remedy; they require provision to be made by government; they demand the skilful hand of experienced statesmen. Until some just remedy be applied, they are likely to continue, with more or less of aggravation, and no man can tell when or how they will end. It is vain, therefore, quite vain, for government to hope that it may retreat from this great duty, shield itself under a system no way agreeing either with its powers or its obligations, and thus escape reproach by attempting to escape responsibility.

Mr. President, there is fault and failure somewhere. Either the Constitution has failed, or its administration fails. The great end of a uniform and satisfactory regulation of commerce is not answered, because the national currency, an indispensable instrument of that commerce, is not preserved in a sound and uniform state.

Is the fault in the Constitution itself? Those who affirm that it is, must show how it happened that other administrations, in other times, have been able to give the people abundant satisfaction in relation to the currency. I suppose it will be said, in answer to this, that the Constitution has been violated; that it was originally misconstrued; that those who made it did not understand it; and that the sage and more enlightened politicians of our times see deeper, and judge more justly of the Constitution, than Washington and Madison. Certain it is that they have more respect for their own sagacity than for all the wisdom of others, and all the experience of the country; or else they find themselves, by their party politics and party commitments, cut off from all ability of administering the Constitution according to former successful practice.

Mr. President, when I contemplate the condition of the country; when I behold this utter breaking down of the currency,

this wide-spread evil among all the industrious classes, this acknowledged inability of government to pay its debts legally, this prostration of commerce and manufactures, this shocking derangement of the internal exchanges, and the general crash of credit and confidence; and when I see that three hundred representatives of the people are here assembled to consult on the public exigency, and that, repudiating the wisdom of our predecessors, and rejecting all the lights of our own experience, nothing is proposed for our adoption, to meet an emergency of this character, but the bill before us, — I confess, the whole scene seems to me to be some strange illusion. I can hardly persuade myself that we are all in our waking senses. It appears like a dream, like some fantasy of the night, such as the opening light of the morning usually dispels.

There is so little of apparent relation of means to ends; the measure before us has so little to promise for the relief of existing evils; it is so alien, so outlandish, so remote from the causes which press down all the great public interests, that I find it difficult to regard as real what is thus around me.

Sir, some of us are strangely in error. The difference between us is so wide; the views which we take of public affairs are so opposite; our opinions, both of the causes of present evils and their appropriate remedies, so totally unlike, that one side or the other must be under the influence of some strange delusion. Darkness, thick darkness, hangs either over the supporters of this measure, or over its opponents. Time and the public judgment, I trust, will sooner or later disperse these mists, and men and measures will be seen in their true character. I think, indeed, that I see already some lifting up of the fog.

The honorable member from New York has said, that we have now, already existing, a mode of conducting the fiscal affairs of the country, substantially such as this bill will establish. We may judge, therefore, he says, of the future by the present. A sub-treasury system in fact, he contends, is now in operation; and he hopes the country sees so much good in it as to be willing to make it permanent and perpetual. The present system, he insists, must at least be admitted not to have obstructed or impeded the beneficial action of the immense resources of the country.

Sir, this seems to me a most extraordinary declaration. The

operation and energy of the resources of the country not obstructed! The business of the community not impeded! Why, Sir, this can be true only upon the supposition that present evils are no way attributable to the policy of government; that they all spring from some extraneous and independent cause. If the honorable member means that the disasters which have fallen upon us arise from causes which government cannot control, such as over-trading or speculation, and that government is answerable for nothing, I can understand him, though I do not at all concur with him. But that the resources of the country are not now in a state of great depression and stagnation, is what I had supposed none would assert. Sir, what are the resources of the country? The first of all, doubtless, is labor. Does this meet no impediment? Does labor find itself rewarded, as heretofore, by high prices, paid in good money? The whole mass of industry employed in commerce and manufactures, does it meet with no obstruction, or hinderance, or discouragement? And commerce and manufactures, in the aggregate, embracing capital as well as labor, are they, too, highly prosperous? Is there nothing of impediment or obstruction in their present condition?

Again, Sir; among our American resources, from the very first origin of this government, credit and confidence have held a high and foremost rank. We owe more to credit and to commercial confidence than any nation which ever existed; and ten times more than any nation except England. Credit and confidence have been the life of our system, and powerfully productive causes of all our prosperity. They have covered the seas with our commerce, replenished the treasury, paid off the national debt, excited and stimulated the manufacturing industry, encouraged labor to put forth the whole strength of its sinews, felled the forests, and multiplied our numbers and augmented the national wealth so far beyond all example, as to leave us a phenomenon for older nations to look at with wonder. And this credit, and this confidence, are they now no way obstructed or impeded? Are they now acting with their usual efficiency, and their usual success, on the concerns of society?

The honorable member refers to the exchanges. No doubt, Sir, the rate of foreign exchange has nothing in it alarming; nor has it had, if our domestic concerns were in a proper condi-

tion. But that the internal exchanges are in a healthful condition, as the honorable member alleges, is what I can by no means admit. I look upon the derangement of the internal exchanges as the precise form in which existing evils most manifestly exhibit themselves. Why, Sir, look at the rates between large cities in the neighborhood of each other. Exchange between Boston and New York, and also between Philadelphia and New York, is from one and a half to two per cent. This could never happen but from a deranged currency; and can this be called a healthful state of domestic exchange?

I understand that the cotton crop has done much towards equalizing exchange between New Orleans and New York; and yet I have seen, not many days since, that in other places of the South, I believe Mobile, exchange on New York was at a premium of from five to ten per cent.

The manufacturers of the North can say how they have found, and how they now find, the facilities of exchange. I do not mean exclusively, or principally, the large manufacturers of cotton and woollen fabrics; but the smaller manufacturers, men who, while they employ many others, still bestow their own labor on their own capital; the shop manufacturers, such manufacturers as abound in New Jersey, Connecticut, and other parts of the North. I would ask the gentlemen from these States how these neighbors of theirs find exchanges, and the means of remittance, between them and their correspondents and purchasers in the South. The carriage-makers, the furniture-makers, the hatters, the dealers in leather, in all its branches, the dealers in domestic hardware, — I should like to hear the results of the experience of all these persons on the state of the internal exchanges, as well as on the general question, whether the industry of the country has encountered any obstacle in the present state of the currency.

Mr. President, the honorable member from New York stated correctly, that this bill has two leading objects. The first is, a separation of the revenue and the funds of the government from all connection with the concerns of individuals, and of corporations; and especially a separation of these funds from all connection with any banks. The second is, a gradual change in our system of currency, to be carried on till we can accomplish the object of an exclusive specie or metallic circulation, at least

in all payments to government and all disbursements by government.

Now, Sir, I am against both these propositions, ends as well as means. I am against this separation of government and people, as unnatural, selfish, and an abandonment of the most important political duties. I am for having but one currency, and that a good one, both for the people and the government. I am opposed to the doctrines of the message of last September, and to every thing which grows out of those doctrines. I feel as if I were on some other sphere, as if I were not at home, as if this could not be America, when I see schemes of public policy proposed, having for their object the convenience of government only, and leaving the people to shift for themselves in a matter which naturally and necessarily belongs, and in every other country is admitted to belong, to the solemn obligations and the undoubted power of government. Is it America, where the government, and men in the government, are to be better off than the people? Is it America, where government is to shut its eyes and its ears to public complaint, and to take care only of itself? Is it America, Mr. President, is it your country, and my country, in which, at a time of great public distress, when all eyes are turned to Congress, and when most men feel that substantial and practical relief can come only from Congress, that Congress, nevertheless, has nothing on earth to propose but bolts and bars, safes and vaults, cells and hiding-places, for the better security of its own money, and nothing on earth, not a beneficent law, not even a kind word, for the people themselves? Is it our country in which the interest of government has reached such an ascendency over the interest of the people, in the estimate of the representatives of the people? Has this, Sir, come to be the state of things in the old thirteen, with the new thirteen added to them? For one, I confess, I know not what is American, in policy, in public interest, or in public feeling, if these measures be deemed American.

The first general aspect, or feature of the bill, the character written broadly on its front, is this abandonment of all concern for the general currency of the country. This is enough for me. It secures my opposition to the bill in all stages. Sir, this bill ought to have had a preamble. It ought to have been introduced by a recital, setting forth that, whereas the currency of

the country has become totally deranged; and whereas it has heretofore been thought the bounden duty of this government to take proper care of that great branch of the national interest; and whereas that opinion is erroneous, obsolete, and heretical; and whereas, according to the true reading of the Constitution, the great duty of this government, and its exclusive duty, so far as currency is concerned, is to take care of itself; and whereas, if government can but secure a sound currency for itself, the people may very well be left to such a currency as the States, or the banks, or their own good fortune, or bad fortune, may give them; therefore be it enacted, &c.

The very first provision of the bill is in keeping with its general objects and general character. It abandons all the sentiments of civilized mankind, on the subject of credit and confidence, and carries us back to the Dark Ages. The first that we hear is of safes, and vaults, and cells, and cloisters. From an intellectual, it goes back to a physical age. From commerce and credit, it returns to hoarding and hiding; from confidence and trust, it retreats to bolts and bars, to locks with double keys, and to pains and penalties for touching hidden treasure. It is a law for the times of the feudal system; or a law for the heads and governors of the piratical states of Barbary. It is a measure fit for times when there is no security in law, no value in commerce, no active industry among mankind. Here it is altogether out of time and out of place. It has no sympathy with the general sentiments of this age, still less has it any congeniality with our American character, any relish of our hitherto approved and successful policy, or any agreement or conformity with the general feeling of the country.

The gentleman, in stating the provisions of the first section, proceeds to say, that it is strange that none of our laws, heretofore, has ever attempted to give to the treasury of the United States a "local habitation." Hence it is the object of this first section of the bill to provide and define such local habitation. A local habitation for the treasury of a great commercial country, in the nineteenth century! Why, Sir, what is the treasury? The existing laws call it a "Department." They say, there shall be a department, with various officers, and make a proper assignment of their duties and functions; and that this shall be the Department of the Treasury. It is, thus, an organized part of

government; an important and indispensable branch of the general administration, conducting the fiscal affairs of the country, and controlling subordinate agents.

But this bill does away with all legal and political ideas, and brings this important department down to a thing of bricks and mortar. It enacts that certain rooms in the new building, with their safes and vaults, shall constitute the treasury of the United States! And this adoption of new and strange notions, and this abandonment of all old ideas, is all for the purpose of accomplishing the great object of separating the affairs of the government from the affairs of the country. The nature of the means shows the nature of the object; both are novel, strange, untried, and unheard of. The scheme, Sir, finds no precedent, either in our own history or the history of any other respectable nation. It is admitted to be new, original, experimental; and yet its adoption is urged upon us as confidently as if it had come down from our ancestors, and had been the cherished policy of the country in all past times.

I am against it altogether. I look not to see whether the means be adapted to the end. That end itself is what I oppose, and I oppose all the means leading to it. I oppose all attempts to make a separate currency for the government, because I insist upon it, and shall insist upon it, until I see and feel the pillars of the Constitution falling around me, and upon my head, that it is the duty of this government to provide a good currency for the country, and for the people, as well as for itself.

I put it to gentlemen to say, whether currency be not a part of commerce, or an indispensable agent of commerce; and something, therefore, which this government is bound to regulate, and to take care of. Gentlemen will not meet the argument. They shun the question. We demand that the just power of the Constitution shall be administered. We assert that Congress has power to regulate commerce, and currency as a part of commerce; we insist that the public exigency, at the present moment, calls loudly for the exercise of this power, — and what do they do? They labor to convince us that the government itself can get on very well without providing a currency for the people, and they betake themselves, therefore, to the sub-treasury system, its unassailable walls, its iron chests, and doubly-secured doors. And having satisfied themselves that, in

this way, government may be kept going, they are content. A sound currency for government, a safe currency for revenue,— these are the only things promised, the only things proposed. But these are not the old promise. The country, the country itself, and the whole people, were promised a better currency for their own use; a better general currency; a better currency for all the purposes of trade and business. This was the promise solemnly given by the government in 1833, and so often afterwards renewed, through all successive years, down to May last. We heard nothing, all that time, of a separation between government and people. No, Sir, not a word. Both were to have an improved currency. Sir, I did not believe a word of all this; I thought it all mere pretence or empty boasting. I had no faith in these promises, not a particle. But the honorable member from New York was confident; confident then as he is now; confident of the success of the first scheme, which was plausible, as he is confident of this, which is strange, alien, and repulsive in its whole aspect. He was then as sure of being able to furnish a currency for the country, as he is now of furnishing a currency for government. He told us at that time, that he believed the system adopted by the late administration was fully competent to its object. He felt no alarm for the result. He believed all the President had done, from the removal of the deposits downwards, was constitutional and legal; and he was determined to place himself by the side of the President, and desired only to stand or fall in the estimation of his constituents, as they should determine in the result; and that result has now come.

As I have said, Sir, I had no faith at all in the promises of the administration, made before and at that time, and constantly repeated. I felt no confidence whatever in the whole project; I deemed it rash, headstrong, and presumptuous, to the last degree. And, at the risk of some offence against good taste, I will read a paragraph from some remarks of mine in February, 1834, which sufficiently shows what my opinion and my apprehensions then were.

"I have already endeavored to warn the country against irredeemable paper; against the paper of banks which do not pay specie for their own notes; against that miserable, abominable, and fraudulent policy which attempts to give value to any paper, of any bank, one single moment

longer than such paper is redeemable on demand in gold and silver. I wish most solemnly and earnestly to repeat that warning. I see danger of that state of things ahead. I see imminent danger that a portion of the State banks will stop specie payments. The late measure of the Secretary, and the infatuation with which it seems to be supported, tend directly and strongly to that result. Under pretence, then, of a design to return to a currency which shall be all specie, we are likely to have a currency in which there shall be no specie at all. We are in danger of being overwhelmed with irredeemable paper, mere paper, representing not gold nor silver; no, Sir, representing nothing but broken promises, bad faith, bankrupt corporations, cheated creditors, and a ruined people."

And now, Sir, we see the upshot of the "experiment." We see around us bankrupt corporations, and broken promises; but we see no promises more really and emphatically broken, than all those promises of the administration, which gave us assurance of a better currency. These promises, now broken, notoriously and openly broken, if they cannot be performed, ought at least to be acknowledged. The government ought not, in common fairness and common honesty, to deny its own responsibility, and seek to escape from the demands of the people, and to hide itself out of the way, and beyond the reach of the process of public opinion, by retreating into this sub-treasury system. Let it at least come forth; let it bear a port of honesty and candor; let it confess its promises, if it cannot perform them; and above all, now, even now, at this late hour, let it renounce schemes and projects, the inventions of presumption, and the resorts of desperation, and let it address itself, in all good faith, to the great work of restoring the currency by approved and constitutional means.

But, Sir, so far is any such course from all probability of being adopted, so little ground of hope is there that this sub-treasury system will be abandoned, that the honorable member from New York has contended and argued in his place, that the public opinion is more favorable to this measure now proposed than to any other which has been suggested. He claims for it the character of a favorite with the people. He makes out this sub-treasury plan to be quite high in popular estimation. Certainly, Sir, if the honorable member thinks so, he and I see with different eyes, hear with different ears, or form opinion from very dif-

ferent sources of information. But what is the gentleman's argument? It is this. The two houses of Congress, he says, reflect the wishes and opinions of the people; and with the two houses of Congress, this system, he supposes, is more acceptable than any other.

Now, Sir, with the utmost respect for the two houses of Congress, and all their members, I must be permitted to express a doubt, and indeed a good deal more than a doubt, whether, on this subject, and at the present moment, the two houses do exactly reflect the opinions and wishes of the people. I should not have adverted to the state of opinion here compared with the state of public opinion in the country, if the gentleman had not founded an argument on the supposed disposition of the two houses, and on the assumption that they truly represent the public opinion. But since he has brought forward such an argument, it is proper to examine its foundation.

In a general sense, undoubtedly, Sir, the members of the two houses must be understood to represent the sentiments of their constituents, the people of the United States. Their acts bind them, as their representatives, and they must be considered, in legal understanding, as conforming to the will of their constituents. But owing to the manner of our organization, and to the periods and times of election, it certainly may happen, that at a particular moment, and on a particular subject, opinion out doors may be one way, while opinion here is another. And how is it now, if we may judge by the usual indications? Does the gentleman hope for no vote, in this body, for his bill, but such as shall be, in his opinion, in strict accordance with the wishes, as generally understood, and most recently expressed, in the State from which that vote shall come?

I shall be exceedingly sorry, Sir, for instance, to see a vote from Maine given for this bill. I hope I may not. But if there should be such a vote, can the gentleman say that he believes, in his conscience, it will express the wishes of a majority of the people of that State? And so of New Jersey, and one, if not more, of the Western States. I am quite sure that gentlemen who may give their votes will discharge their duty, according to their own enlightened judgments, and they are no way accountable to me for the manner in which they discharge it; but when the honorable member from New York contends that this body

now accurately represents public opinion on the sub-treasury system, we must look at the facts. And with all possible respect for the honorable member, I must even take leave to ask him, whether, in his judgment, he himself is truly reflecting the opinions and wishes of a majority of the people of New York, while he is proposing and supporting this bill? Where does he find evidence of the favor of the people of that State towards this measure? Does he find it in the city? in the country? in the recently elected House of Assembly? in the recently elected members of the Senate? Can he name a place, can he lay a *venue*, for the popularity of this measure, in the whole State of New York? Between Montauk Point and Cattaraugus, and between the mountains of Pennsylvania and the northern end of Lake Champlain, can he anywhere put his finger on the map and say, Here is a spot where the sub-treasury is popular? He may find places, no doubt, though they are somewhat scarce, where his friends have been able to maintain their ascendency, *notwithstanding* the unpopularity of the measure; but can he find one place, one spot of any extent, in which this measure of relief is the choice, the favorite, of a majority of the people?

Mr. President, the honorable member has long been in public life, and has witnessed often the changes and fluctuations of political parties and political opinions. And I will ask him what he thinks of the hurricane which swept over New York in the first week of last November. Did he ever know the like? Has he before ever been called on to withstand such a whirlwind? Or had he previously any suspicion that such an outbreak in the political elements was at hand? I am persuaded, Sir, that he feared such a thing much less than I hoped for it; and my own hopes, although I had hopes, and strong hopes, I must confess, fell far short of the actual result. And to me, Mr. President, it seems perfectly plain, that the cause of this astonishing change in public opinion is mainly to be found in the message of September, and the sub-treasury bill of the last session. The message, with its anti-social, anti-commercial, anti-popular doctrines and dogmas, the message which set at naught all our own customs and usages, rejected all the teachings of experience, threatened the State institutions, and, anxious only to take good care of government, abandoned the people to their fate,—the message, the message, it was, that did the great work in New York, and elsewhere.

The message was that cave of Eolus, out of which the careering winds issued:

> "Una Eurusque Notusque ruunt, creberque procellis
> Africus";

mingling seas and skies, dispersing the most powerful political combinations, and scattering their fragments on the rocks and shores. I might quote the poet further, Sir:

> "Et vastos volvunt ad littora fluctus."

The political deep seemed agitated to the very bottom, and its heaving bosom moved onward and forward the "*vastos fluctus*"; in nautical phrase, the big rollers of public opinion.

The honorable member may say, or may think, that all this was but the result of a transient impulse, a feverish ebullition, a sudden surprise, or a change superficial and apparent only, not deep and real. Sir, I cannot say, but I must confess that, if the movement in New York, last fall, was not real, it looked more like reality than any fanciful exhibition which I ever saw. If the people were not in earnest, they certainly had a very sober and earnest way of being in jest.

And now, Sir, can the honorable member, can any man, say, that, in regard to this measure, even the House of Representatives is certain, at this moment, truly to reflect the public judgment? Though nearer to the people than ourselves, and more frequently chosen, yet it is known that the present members were elected, nearly all of them, before the appearance of the message of September. And will the honorable member allow me to ask, whether, if a new election of members of Congress were to take place in his own State to-morrow, and the newly elected members should take their seats immediately, he should entertain the slightest expectation of the passage of this bill through that House?

Mr. President, in 1834, the honorable member presented to the Senate resolutions of the legislature of New York approving the previous course of the administration in relation to the currency. He then urged strongly, but none too strongly, the weight due to those resolutions, because, he urged, they expressed the undoubted sense of the people, as well as that of the legislature. He said there was not, at that time, a single member in the popular branch of the legislature who was not in favor of those res-

olutions, either from the cities of Hudson, Albany, Troy, Schenectady, Utica, or an almost endless number of incorporated trading towns and villages, or the great city of New York itself, which he justly calls the commercial emporium of the country; all these cities and villages being surrounded, as he most justly said, by an intelligent population, and cities, villages, and country together comprising near two millions of souls. All this was very well. It was true. The facts were with the honorable member; and although I most exceedingly regretted and deplored that it was so, I could not deny it. And he was entitled to enjoy, and did enjoy, the whole benefit of this respectable support. But, Sir, how stands the matter now? What say these two millions of souls to the sub-treasury? In the first place, what says the city of New York, that great commercial emporium, worthy the gentleman's commendation in 1834, and worthy of his commendation and my commendation and all commendation at all times? What sentiments, what opinions, what feelings, are proclaimed, by the thousands of her merchants, traders, manufacturers, and laborers? What is the united shout of all the voices of all her classes? What is it but that you will put down this new-fangled sub-treasury system, alike alien to their interests and their feelings, at once and for ever? What is it but that, in mercy to the mercantile interest, the trading interest, the shipping interest, the manufacturing interest, the laboring class, and all classes, you will give up useless and pernicious political schemes and projects, and return to the plain, straight course of wise and wholesome legislation? The sentiments of the city cannot be misunderstood. A thousand pens, and ten thousand tongues, and a spirited press, make them all known. If we have not already heard enough, we shall hear more. Embarrassed, vexed, pressed, and distressed as are her citizens at this moment, yet their resolution is not shaken, their spirit is not broken; and, depend upon it, they will not see their commerce, their business, their prosperity, and their happiness all sacrificed to preposterous schemes and political empiricism, without another, and yet a more vigorous, struggle. And Hudson and Albany and Troy and Schenectady and Utica, pray, Sir, why may not the citizens of these cities have as much weight with the honorable member now as they justly had in 1834? And does he, can he, doubt of what they think

of his bill? Ay, Sir, and Rochester and Batavia and Buffalo, and the entire western district of the State, — does the honorable member suppose that, in the whole of it, he would be able, by careful search, to do more than to find, now and then, so rare a bird as a single approver of this system?

Mr. President, if this system must come, let it come. If we must bow to it, why, then, put it upon us. Do it. Do it by the power of Congress and the President. Congress and the President have the power. But spare us, I beseech you, spare the people from the imputation that it is done under clear proof and evidence of their own approbation. Let it not be said it is their choice. Save them, in all mercy, from that reproach.

Sir, I think there is a revolution in public opinion now going on, whatever may be the opinion of the member from New York, or others. I think the fall elections prove this, and that other more recent events confirm it. I think it is a revolt against the absolute dictation of party, a revolt against attempts to coerce the public judgment; and especially a revolt against the adoption of new, mischievous expedients in matters of deep public interest; a revolt against the rash and unbridled spirit of change; a revolution, in short, against further revolution. I hope most sincerely that this revolution may go on; not, Sir, for the sake of men, but for the sake of measures, and for the sake of the country. I wish it to proceed till the whole country, with an imperative unity of voice, shall call back Congress to the true policy of the government.

The honorable member from New York is of opinion, Sir, that there are only three courses open to us. We must, he urges, either adopt this measure, or return to a system of deposits with the State banks, or establish a national bank. Now, Sir, suppose this to be as the gentleman states, then I say that either of the others is better than this. I would prefer doing almost any thing, and vastly prefer doing nothing, to taking this bill.

I need not conceal my own opinions. I am in favor of a national institution, with such provisions and securities as Congress may think proper, to guard against danger and against abuse. But the honorable member disposes of this, at once, by the declaration that he himself can never consent to a bank, being utterly opposed to it, both on constitutional grounds and grounds of expediency. The gentleman's opinion, Sir, always

respected, is certainly of great weight and importance, from the public situation he occupies. But although these are his opinions, is it certain that a majority of the people of the country agree with him in this particular? I think not. I verily believe a majority of the people of the United States are now of the opinion that a national bank, properly constituted, limited, and guarded, is both constitutional and expedient, and ought now to be established. So far as I can learn, three fourths of the Western people are for it. Their representatives here can form a better judgment; but such is my opinion, upon the best information which I can obtain. The South may be more divided, or may be against a national institution; but looking again to the centre, the North, and the East, and comprehending the whole in one view, I believe the prevalent sentiment is such as I have stated.

At the last session, great pains were taken to obtain a vote of this and the other house against a bank, for the obvious purpose of placing such an institution out of the list of remedies, and so reconciling the people to the sub-treasury scheme. Well, Sir, and did those votes produce any effect? None at all. The people did not, and do not, care a rush for them. I never have seen or heard of a single man, who paid the slightest respect to those votes of ours. The honorable member, to-day, opposed as he is to a bank, has not even alluded to them. So entirely vain is it, Sir, in this country, to attempt to forestall, commit, or coerce the public judgment. All those resolutions fell perfectly dead on the tables of the two houses. We may resolve what we please, and resolve it when we please; but if the people do not like it, at their own good pleasure they will rescind it; and they are not likely to continue their approbation long to any system of measures, however plausible, which terminates in deep disappointment of all their hopes for their own prosperity.

I have said, Sir, that, in preference to this bill, I would try some modification of the State bank system; and I will cheerfully do so, although every body knows that I always opposed that system. Still I think it less objectionable than this. Mr. President, in my opinion, the real source of the evil lies in the tone, and spirit, and general feeling, which have pervaded the administration for some years past. I verily believe the origin

of the distress is there. That spirit, I fully believe, has been deeply anti-commercial, and of late decidedly unfriendly to the State institutions. Do the leading presses in favor of the administration speak its own sentiments? If you think they do, then look at the language and spirit of those presses. Do they not manifest an unceasing and bitter hostility to the mercantile classes, and to the institutions of the States? I certainly never supposed the State banks fit agents for furnishing or regulating a national currency; but I have thought them useful in their proper places. At any rate, the States had power to establish them, and have established them, and we have no right to endeavor to destroy them. How is it, then, that nearly every leading press which supports the administration joins in the general cry against these institutions of the States? How is it, if it be not that a spirit hostile to these institutions has come to pervade the administration itself? In my opinion, the State banks, on every ground, demand other treatment; and the interest of the country requires that they should receive other treatment. The government has used them, and why should it now not only desert, but abuse them? That some of the selected banks have behaved very unworthily, is no doubt true. The best behavior is not always to be expected from pets. But that the banks, generally, deserved this unrestrained warfare upon them at the hands of government, I cannot believe. It appears to me to be both ungrateful and unjust.

The banks, Sir, are now making an effort, which I hope may be successful, to resume specie payments. The process of resumption works, and must work, with severity upon the country. Yet I most earnestly hope the banks may be able to accomplish the object. But in all this effort they get no aid from government, no succor from government, not even a kind word from government. They get nothing but denunciation and abuse. They work alone, and therefore the attainment of the end is the more difficult. They hope to reach that end only, or mainly, by reduction and curtailment. If, by these means, payment in specie can be resumed and maintained, the result will prove the existence of great solidity, both of the banks and of the mercantile classes. The Bank of England did not accomplish resumption by curtailment alone. She had the direct aid of government. And the banks of the United States, in

1816, did not rely on curtailment alone. They had the aid of the then new-created Bank of the United States, and all the countenance, assistance, and friendly support which the government could give them. Still, I would not discourage the efforts of the banks. I trust they will succeed, and that they will resume specie payments at the earliest practicable moment; but it is, at the same time, my full conviction, that, by another and a better course of public policy, the government might most materially assist the banks to bring about resumption, and that by government aid it might be brought about with infinitely less of public inconvenience and individual distress. For an easy resumption of specie payments, there is mainly wanted a revival of trust, the restoration of confidence, and a harmonious action between the government and the moneyed institutions of the country. But instead of efforts to inspire trust and create confidence, we see and hear nothing but denunciation; instead of harmonious action, we find nothing but unrelenting hostility.

Mr. President, you and I were in Congress in 1816, during the time of the suspension of specie payments by the banks. What was the spirit of the government at that time, Sir? Was it hostile, acrimonious, belligerent towards the State institutions? Did it look on them only to frown? Did it touch them only to distress? Did it put them all under the scourge? You know, Sir, it was far otherwise. You know that the Secretary of that day entered into friendly correspondence with them, and assured them that he would second their efforts for resumption by all the means in his power. You know, Sir, that in fact he did render most essential aid. And do you see, Sir, any similar effort now? Do you behold in the bill before us any thing of the spirit or the policy of Mr. Madison, on an occasion very like the present? Mr. Madison was a man of such subdued self-respect, that he was willing to yield to experience and to the opinion of his country; a man, too, of so much wisdom and true patriotism, that nothing was allowed to stand between him and his clear perception of the public good. Do you see, Sir, any thing of this spirit, of the wisdom, of the mild, and healing, and restoring policy, of Mr. Madison, in this measure? Another illustrious man, now numbered with the dead, was then with us, and was acting an important part in the counsels of

the country. I mean Mr. Lowndes; a man not deficient in force and genius, but still more distinguished for that large and comprehensive view of things which is more necessary to make great men, and is also much rarer, than mere positive talent, and for an impartial, well-balanced judgment, which kept him free from prejudice and error, and which gave great and just influence to all his opinions. Do you see, Sir, any thing of the spirit, the temper, the cool judgment, or the far-sighted policy of Mr. Lowndes, in the projects now before us? And Mr. Crawford, then at the head of the treasury, arduously striving to restore the finances, to reëstablish both public and private credit, and to place the currency once more upon its safe and proper foundation; do you see, Sir, the marks of Mr. Crawford's hand in the measure now presented for our approbation?

Mr. President, I have little to say of the subordinate provisions of this bill, of the receivers-general, or of the dangerous power given to the Secretary, of investing the public money in State stocks of his own selection. My opposition to the bill is to the whole of it. It is general, uncompromising, and decided. I oppose all its ends, objects, and purposes; I oppose all its means, its inventions, and its contrivances. I am opposed to the separation of government and people; I am opposed, now and at all times, to an exclusive metallic currency; I am opposed to the spirit in which the measure originates, and to all and every emanation and ebullition of that spirit. I solemnly declare, that in thus studying our own safety, and renouncing all care over the general currency, we are, in my opinion, abandoning one of the plainest and most important of our constitutional duties. If, Sir, we were, at this moment, at war with a powerful enemy, and if their fleets and armies were now ravaging our shores, and it were proposed in Congress to take care of ourselves, to defend the Capitol, and abandon the country to its fate, it would be certainly a more striking, a more flagrant and daring, but in my judgment not a more clear and manifest dereliction of duty, than we commit in this open and professed abandonment of our constitutional power and constitutional duty over the great interest of the national currency. I mean to maintain that constitutional power, and that constitutional duty, to the last. It shall not be with my consent that our ancient policy is overturned. It shall not be with my consent that the country is plunged

farther and farther into the unfathomed depths of new expedients. It shall not be without a voice of remonstrance from me, that one great and important purpose for which this government was framed is now utterly surrendered and abandoned for ever.

SECOND SPEECH ON THE SUB-TREASURY.*

Mr. President, — Having at an early stage of the debate expressed, in a general manner, my opposition to this bill, I must find an apology for again addressing the Senate in the acknowledged importance of the measure, the novelty of its character, and the division of opinion respecting it which is known to exist in both houses of Congress. To be able, in this state of things, to give a preponderance to that side of the question which I embrace is, perhaps, more than I ought to hope; but I do not feel that I have done all which my duty demands, until I make another effort.

The functions of this government, which, in time of peace, most materially affect the happiness of the people, are those which respect commerce and revenue. The bill before us touches both these great interests. It proposes to act directly on the revenue and expenditure of government, and it is expected to act also, indirectly, on commerce and currency; while its friends and supporters, relying solely on this, altogether abstain from other measures, deemed by a great portion of Congress, and of the country, to be indispensably demanded by the present exigency.

We have arrived, Mr. President, toward the close of a half-century from the adoption of the Constitution. During the progress of these years, our population has increased from three or four millions to thirteen or fourteen millions; our commerce, from little or nothing, to an export of a hundred and ninety millions, and an import of a hundred and twenty-eight and a half millions, in the year 1836. Our mercantile tonnage approaches

* Delivered in the Senate of the United States, on the 12th of March, 1838.

near to two millions. We have a revenue, and an expenditure, of thirty millions a year. The manufactures of the country have attained very great importance, and, up to the commencement of the derangement of the currency, were in a prosperous and growing state. The produce of the fisheries has become vast; and the general production of labor and capital is increasing, far beyond all example in other countries or other times, and has already reached an amount which, to those who have not investigated the subject, would seem incredible.

The commerce of the United States, Sir, is spread over the globe. It pursues its object in all seas, and finds its way into every port which the laws of trade do not shut against its approach. With all the disadvantages of more costly materials, and of higher wages, and often in despite of unequal and unfavorable commercial regulations of other States, the enterprise, vigor, and economy which distinguish our navigating interest enable it to show our flag, in competition with the most favored and the most skilful, in the various quarters of the world. In the mean time, internal activity does not lag nor loiter. New and useful modes of intercourse and facilities of transportation are established, or are in progress, everywhere. Public works are projected and pushed forward, in a spirit which grasps at high and vast objects, with a bold defiance of all expense. The aggregate value of the property of the country is augmented daily. A constant demand for new capital exists, although a debt has already been contracted in Europe, for sums advanced to States, corporations, and individuals, for purposes connected with internal improvement, which cannot now be less than a hundred millions of dollars. Spreading over a great extent, embracing different climates, and with a vast variety of products, we find an intensely excited spirit of industry and enterprise to pervade the whole country; while its external commerce, as I have already said, sweeps over every sea. We are connected with all commercial countries, and especially with that which has established and sustained the most stupendous system of commerce and manufactures, and which collects and disburses an incredible amount of annual revenue; and which uses to this end, and as means of currency and circulation, a mixed money of metal and paper.

Such a mixed system, Sir, has also prevailed with us from

the beginning. Gold and silver, and convertible bank paper, have always constituted our actual money. The people are used to this system. It has hitherto commanded their confidence, and fulfilled their expectations. We have had, in succession, two national banks; each for a period of twenty years. Local or State banks have, at the same time, been in operation; and no man of intelligence or candor can deny that, during these forty years, and with the operation of these national and State institutions, the currency of the country, upon the whole, has been safe, cheap, convenient, and satisfactory. When the government was established, it found convertible bank paper, issued by State banks, already in circulation; and with this circulation it did not interfere. The United States, indeed, had themselves established a bank, under the old Confederation, with authority to issue paper. A system of mixed circulation, therefore, was exactly that system which this Constitution, at its adoption, found already in existence. There is not the slightest evidence of any intention, in establishing the Constitution, to overthrow or abolish this system, although it certainly was the object of the Constitution to abolish bills of credit, and all paper intended for circulation, issued upon the faith of the States alone. Inasmuch as whatever then existed, of the nature of money or currency, rested on State legislation, and as it was not possible that uniformity, general credit, and general confidence could result from local and separate acts of the States, there is evidence, I think abundant evidence, that it was the intention of the framers of the Constitution to give to Congress a controlling power over the whole subject, to the end that there should be, for the whole country, a currency of uniform value. Congress has heretofore exercised this authority, and fulfilled the corresponding duties. It has maintained, for forty years out of forty-nine, a national institution, proceeding from its power, and responsible to the general government. With intervals of derangement, brought about by war and other occurrences, this whole system, taken altogether, has been greatly successful in its actual operation. We have found no occasion to create a difference between government and people, between money for revenue and money for the general use of the country. Until the commencement of the last session, government had manifested no disposition to look out for itself exclusively.

What was good enough for the people was good enough for government. No condescending and gracious preference had, before that period, ever been tendered to members of Congress, over other persons having claims upon the public funds. Such a singular spectacle had never been exhibited, as an amicable, disinterested, and patriotic understanding between those who are to vote taxes on the people, for the purpose of replenishing the treasury, and those who from the treasury dispense the money back again among those who have claims on it. In that respect, I think the Secretary stands alone. He is the first, so far as I know, in our long list of able heads of departments, who has thought it a delicate and skilful course, in financial administration, to be particularly kind and complaisant to the interest of the law-makers, those who hold the tax-laying power; the first whose great deference and cordial regard for members of Congress have led him to provide for them, as the medium of payment and receipt, something more valuable than is provided, at the same time, for the army, the navy, the judges, the Revolutionary pensioners, and the various classes of laborers employed by the government.

Through our whole history, Sir, we have found a convertible paper currency, under proper control, highly useful, by its pliability to circumstances, and by its capacity of enlargement, in a reasonable degree, to meet the demands of a new and enterprising community. As I have already said, Sir, we owe a permanent debt of a hundred millions abroad; and in the present abundance of money in England, and the state of demand here, this amount will probably be increased. But it must be evident to every one, that, so long as, by a safe use of paper, we give some reasonable expansion to our own circulation, or at least do not unreasonably contract it, we do, to that extent, create or maintain an ability for loans among ourselves, and so far diminish the amount of annual interest paid abroad.

But let me now, Mr. President, ask the attention of the Senate to another subject, upon which, indeed, much has already been said. I mean that which is usually called the CREDIT SYSTEM. Sir, what is that system? Why is *credit* a word of so much solid importance, and of so powerful charm, in the United States? Why is it that a shock has been felt through all classes and all interests, the first moment that this credit has been dis-

turbed? Does its importance belong equally to all commercial States? Or are there peculiarities in our condition, our habits and modes of business, which make credit more indispensable, and mingle it more naturally, more intimately, with the life-blood of our system?

A full and philosophical answer to these inquiries, Mr. President, would demand that I should set forth both the groundwork and the structure of our social system. It would show that the wealth and prosperity of the country have as broad a foundation as its popular constitutions. Undoubtedly there are peculiarities in that system, resulting from the nature of our political institutions, from our elementary laws, and from the general character of the people. These peculiarities unquestionably give to credit, or to those means and those arrangements, by whatever names we call them, which are calculated to keep the whole, or by far the greater part, of the capital of the country in a state of constant activity, a degree of importance far exceeding what is experienced elsewhere.

In the old countries of Europe there is a clear and well-defined line between capital and labor; a line which strikes through society with a horizontal sweep, leaving on one side wealth, in masses, holden by few hands, and those having little participation in the laborious pursuits of life; on the other, the thronging multitudes of labor, with here and there only an instance of such accumulation of earnings as to deserve the name of capital. This distinction, indeed, is not universal and absolute in any of the commercial states of Europe, and it grows less and less definite as commerce advances; the effect of commerce and manufactures, as all history shows, being, everywhere, to diffuse wealth, and not to aid its accumulation in few hands. But still the line is greatly more broad, marked, and visible in European nations than in the United States. In those nations the gains of capital, and wages, or the earnings of labor, are not only distinct in idea, as elements of the science of political economy, but to a great degree also distinct in fact; and their respective claims, and merits, and modes of relative adjustment, become subjects of discussion and of public regulation.

Every body may see that that is a state of things which does not exist with us. We have no such visible and broad distinction between capital and labor; and much of the gen-

eral happiness of all classes results from this. With us, labor is every day augmenting its means by its own industry; not in all cases, indeed, but in very many. Its savings of yesterday become its capital, therefore, of to-day. On the other hand, vastly the greater part of the property of the country exists in such small portions, that its holders cannot dispense altogether with their own personal industry. If, in some instances, capital be accumulated till it rises to what may be called affluence, it is usually disintegrated, and broken into particles again, in one or two generations. The abolition of the rights of primogeniture; the descent of property of every sort to females as well as males; the cheap and easy means by which property is transferred and conveyed; the high price of labor; the low price of land; the genius of our political institutions; in fine, every thing belonging to us, counteracts large accumulation. This is our actual system. Our politics, our constitutions, our elementary laws, our habits, all centre in this point, or tend to this result. From where I now stand to the extreme Northeast, vastly the greater part of the property of the country is in the hands and ownership of those whose personal industry is employed in some form of productive labor. General competence, general education, enterprise, activity, and industry, such as never before pervaded any society, are the characteristics which distinguish the people who live, and move, and act in this state of things, such as I have described it.

Now, Sir, if this view be true, as I think it is, all must perceive that, in the United States, capital cannot say to labor and industry, "Stand ye yonder, while I come up hither"; but labor and industry lay hold on capital, break it into parcels, use it, diffuse it widely, and, instead of leaving it to repose in its own inertness, compel it to act at once as their own stimulus and their own instrument.

But, Sir, this is not all. There is another view still more immediately affecting the operation and use of credit. In every wealthy community, however equally property may be divided, there will always be some property-holders who live on its income. If this property be land, they live on rent; if it be money, they live on its interest. The amount of real estate held in this country on lease is comparatively very small, except in the cities. But there are individuals and families, trustees and

guardians, and various literary and charitable institutions, who have occasion to invest funds for the purpose of annual moneyed income. Where do they invest it? where can they invest it? The answer to these questions shows at once a mighty difference between the state of things here and that in England. Here, these investments, to produce a moneyed income, are made in banks, insurance companies, canal and railroad corporations, and other similar institutions. Placed thus immediately in active hands, this capital, it is evident, becomes at once the basis of business; it gives occupation, pays labor, excites enterprise, and performs, in short, all the functions of employed money. But, in England, investments for such purposes usually take another direction. There is, in England, a vast amount of public stocks, as seven or eight hundred millions sterling of public debt actually exist, constituting, to the amount of its annual interest, a charge on the active capital and industry of the country. In the hands of individuals, portions of this debt are capital; that is, they produce income to the proprietors, and income without labor; while, in a national point of view, it is mere debt. What was obtained for it, or that on account of which it was contracted, has been spent in the long and arduous wars which the country has sustained, from the time of King William the Third to our own days. There are thousands of individuals, therefore, whose fixed income arises, not from the active use of property, either in their own hands or the hands of others, but from the interest on that part of this national charge to which they are entitled. If, therefore, we use the term *capital*, not in the sense of political economy exactly, but as implying whatever returns income to individuals, we find an almost incalculable mass so circumstanced in England as not to be the basis of active operations.

To illustrate this idea further, Sir, let us suppose that, by some occurrence (such as is certainly never to be expected), this debt should be paid off; suppose its holders were to receive, tomorrow, their full amounts; what would they do with them? Why, Sir, if they were obliged to loan the quarter part into the hands of the industrious classes, for the purposes of employment in active business, and if this operation could be accompanied by the same intelligence and industry among the people which prevail with us, the result would do more toward raising the

character of the laboring classes, than all reforms in Parliament, or any other general political operation. It would be as if this debt had never been contracted; as if the money had never been spent, and now remained part of the active capital of the country, widely diffused and employed in the business of life. But this debt, Sir, has created an enormous amount of private property, upon the income of which its owners live, which does not require their own active labor or that of others. We have no such debt; we have no such mode of investment; and this circumstance gives quite a different aspect and a different reality to our condition.

Now, Mr. President, what I understand by the credit system is, that which thus connects labor and capital, by giving to labor the use of capital. In other words, intelligence, good character, and good morals bestow on those who have not capital a power, a trust, a confidence, which enables them to obtain it, and to employ it usefully for themselves and others. These active men of business build their hopes of success on their attentiveness, their economy, and their integrity. A wider theatre for useful activity is under their feet, and around them, than was ever open to the young and enterprising generations of men, on any other spot enlightened by the sun. Before them is the ocean. Every thing in that direction invites them to efforts of enterprise and industry in the pursuits of commerce and the fisheries. Around them, on all hands, are thriving and prosperous manufactures, an improving agriculture, and the daily presentation of new objects of internal improvement; while behind them is almost half a continent of the richest land, at the cheapest prices, under healthful climates, and washed by the most magnificent rivers that on any part of the globe pay their homage to the sea. In the midst of all these glowing and glorious prospects, they are neither restrained by ignorance, nor smitten down by the penury of personal circumstances. They are not compelled to contemplate, in hopelessness and despair, all the advantages thus bestowed on their condition by Providence. Capital they may have little or none, but CREDIT supplies its place; not as the refuge of the prodigal and the reckless; not as gratifying present wants with the certainty of future absolute ruin; but as the genius of honorable trust and confidence; as the blessing voluntarily offered to good character and to good

conduct; as the beneficent agent, which assists honesty and enterprise in obtaining comfort and independence.

Mr. President, take away this credit, and what remains? I do not ask what remains to the few, but to the many? Take away this system of credit, and then tell me what is left for labor and industry, but mere manual toil and daily drudgery? If we adopt a system that withdraws capital from active employment, do we not diminish the rate of wages? If we curtail the general business of society, does not every laboring man find his condition grow daily worse? In the politics of the day, Sir, we hear much said about divorcing the government from the banks; but when we abolish credit, we shall divorce labor from capital; and depend upon it, Sir, when we divorce labor from capital, capital is hoarded, and labor starves.

The declaration so often quoted, that "all who trade on borrowed capital ought to break," is the most aristocratic sentiment ever uttered in this country. It is a sentiment which, if carried out by political arrangement, would condemn the great majority of mankind to the perpetual condition of mere day-laborers. It tends to take away from them all that solace and hope which arise from possessing something which they can call their own. A man loves his own; it is fit and natural that he should do so; and he will love his country and its institutions, if he have some stake in that country, although it be but a very small part of the general mass of property. If it be but a cottage, an acre, a garden, its possession raises him, gives him self-respect, and strengthens his attachment to his native land. It is our happy condition, by the blessing of Providence, that almost every man of sound health, industrious habits, and good morals, can ordinarily attain, at least, to this degreee of comfort and respectability; and it is a result devoutly to be wished, both for its individual and its general consequences.

But even to this degree of acquisition that credit of which I have already said so much is highly important, since its general effect is to raise the price of wages, and render industry productive. There is no condition so low, if it be attended with industry and economy, that it is not benefited by credit, as any one will find, if he will examine and follow out its operations.

Such, Mr. President, being the credit system in the United States, as I understand it, I now add, that the banks have been

the agents, and their circulation the instrument, by which the general operations of this credit have been conducted. Much of the capital of the country, placed at interest, is vested in bank stock, and those who borrow, borrow at the banks; and discounts of bills, and anticipation of payments, in all its forms, the regular and appropriate duty of banks, prevail universally.

In the North, the banks have enabled the manufacturers of all classes to realize the proceeds of their industry at an early moment. The course has been, that the producers of commodities for Southern consumption, having despatched their products, draw their bills. These bills are discounted at the banks, and with the proceeds other raw material is bought, and other labor paid; and thus the general business is continued in progress. All this is well known to those who have had opportunity to become acquainted with such concerns.

But bank credit has not been more necessary to the North than to the South. Indeed, nowhere has interest been higher, or the demand for capital greater, or the full benefit of credit more indispensable, than in the new cotton and sugar growing States. I ask gentlemen from those States if this be not so. Have not the plantations been bought, and the necessary labor procured, to a great extent, on credit? Has not this credit been obtained at the banks? Even now do they not find credits, or advances on their crops, important in enabling them to get those crops to market? And if there had been no credit, if a hard-money system had prevailed, let me ask them what would have been, at this moment, the condition of things in Alabama, Louisiana, Mississippi, and Arkansas? These States, Sir, with Tennessee and the Southern Atlantic States, are the seat of the great plantation interest. That there has been a vast demand for capital to be invested in this interest is sufficiently proved by the high price paid for the use of money.

In my opinion, Sir, credit is as essential to the great staple of the South, as to any other interest. The agriculture of the cotton and sugar producing States partakes, in no inconsiderable degree, of the nature of commerce. The production and sale of one great staple only is an operation essentially different from ordinary farming pursuits. The exports of the South, indeed, may be considered as the aggregate result of various forms and modes of industry, carried on by various hands, and in various

places, rather than as the mere product of the plantation. That product itself is local; but its indispensable aids and means are drawn from every part of the Union. What is it, Sir, that enables Southern labor to apply itself so exclusively to the cultivation of these great articles for export? Certainly, it is so applied, because its own necessities for provision and clothing are supplied, meanwhile, from other quarters. The South raises to sell, and not to consume; and with the proceeds of the sales it supplies itself with whatever its own consumption demands. There are exceptions; but this is the general truth. The hat-makers, shoe-makers, furniture-makers, and carriage-makers of the North, the spinners at Lowell, and the weavers of Philadelphia, are all contributors to the general product both of the cotton and the sugar exported; as are the raisers of live stock in Kentucky, the grain-growing farmers, and all who produce and vend provisions in Indiana, Ohio, and Illinois. The Northern ship-owner and the mariner, who carry these products to market, are agents acting to the same end; and so are they, too, who, little thinking of cotton-fields, or sugar estates, are pursuing their adventurous employment in the whale-fisheries, over the whole surface, and among all the islands, of the Pacific and the Indian Oceans. If we take the annual cotton crop at sixty millions of dollars, we may, perhaps, find that the amount of forty-five millions is expended either for interest on capital advanced, or for the expense of clothing and supporting labor, or in the charges which belong to the household, the domestic expenditure, and education.

Thus, Sir, all the laborious classes are, in truth, cotton-growers and sugar-makers. Each, in its own way, and to the extent of its own productiveness, contributes to swell the magnitude of that enormous export, which was nothing at the commencement of this government, and which now has run up to so many millions. Through all these operations the stream of credit has constantly flowed, and there is not one of them that will not be checked and interrupted, embarrassed and thwarted, if this stream be now dried up. This connection of the various interests of the country with one another forms an important and interesting topic. It is one of the natural ties of the Union. The variety of production, and mutual wants mutually supplied, constitute a strong bond between different States; and long

may that bond last, growing with their growth, and strengthening with their strength.

That portion of our productions which takes the form of export becomes distinct and visible; it is prominent and striking, and is seen and wondered at by every body. The annual returns all show it, and every day's commercial intelligence speaks of it. We gaze at it with admiration, and the world is no less admiring than ourselves. With other branches of industry the case is quite different. The products of these branches, being put in the train of domestic exchanges, and consumed in the country, do not get into statistical tables, are not collected in masses, and are seldom presented, in the aggregate, to the public view. They are not of the character of a few large and mighty rivers, but of a thousand little streams, meandering through all the fields of business and of life, and refreshing and fertilizing the whole.

Few of us, Mr. President, are aware of what would be the amount of the general production of the country, if it could be accurately ascertained. The legislature of Massachusetts, under the recommendation of the intelligent chief magistrate of that State, has caused to be prepared and published a report on the condition and products of certain branches of its industry, for the year ending in April, 1837. The returns of the authorities of each city and town were made, apparently, with much care; and the whole has been collated by the Secretary of State, and the result distinctly presented in well-arranged statistical tables. From a summary of the statements in these tables, I will take the liberty of selecting a few articles, and of adverting to them here, as instances, or specimens, of the annual product of labor and industry in that State.

And to begin with a very necessary and important article; I find, that of boots and shoes the value of the whole amount manufactured within the year exceeds fourteen millions and a half of dollars. If the amount of other articles of the same class or material be added, namely, leather, saddles, trunks, harness, and so forth, the total will be not far from eighteen millions and a half of dollars.

I will read the names of some other articles, and state the amount of annual product belonging to each: —

Cotton fabrics	$17,409,000
Woollen fabrics	10,399,000
Fisheries	7,592,000
Books and stationery and paper	2,592,000
Soap and candles	1,620,000
Nails, brads, and tacks	2,500,000
Machinery of various kinds	1,235,000
Agricultural implements	645,000
Glass	831,000
Hats	700,000
Clothing, neckcloths, &c.	2,013,000
Wool	539,000

These, Sir, are samples. The grand total is ninety-one million seven hundred thousand dollars. From this, however, deductions are to be made for the cost of the raw material when imported, and for certain articles enumerated under different heads. But then the whole statement is confined to some branches of industry only; and to present an entire and comprehensive view, there should be added the gains of commerce within the year, the earnings of navigation, and almost the whole agricultural product of the State.

The result of all, if it could be collated and exhibited together, would show that the annual product of Massachusetts capital and Massachusetts industry exceeds one hundred millions of dollars. Now, Sir, Massachusetts is a small State in extent of territory. You may mark out her dimensions seven or eight times on the map of Virginia. Yet her population is seven hundred thousand souls; and the annual result of their laborious industry, economy, and labor is what I have stated it to be.

Mr. President, in looking over this result, it is most gratifying to find that its great mass consists of articles equally essential and useful to all classes. They are not luxuries, but necessaries and comforts. They belong to food and clothing, to household conveniences, and to education. As they are more and more multiplied, the great majority of society becomes more elevated, better instructed, and happier in all respects. I have looked through this whole list, Sir, to find what there is in it that might be fairly classed among the higher luxuries of life. And

what do I find? In the whole hundred millions I find but one such item; and that is an item of two or three hundred thousand dollars for "jewelry, silver, and silver-plate." This is all that belongs to luxury in her annual product of a hundred millions; and of this, no doubt, the far greater portion was sent abroad. And yet we hear daily, Sir, of the amassing of aristocratic wealth by the progress of manufactures and the operations of the credit system! Aristocracy, it is said, is stealing upon us, and, in the form of accumulated wealth, is watching to seize political power from the hands of the people! We have been more than once gravely admonished, that, in order to improve the times, and restore a metallic currency for the benefit of the poor, the rich ought to melt down their plate! Whatever such a melting process might find to act upon elsewhere, Mr. President, I assure you that in Massachusetts it would discover little. A few spoons, candlesticks, and other similar articles, some old family pitchers and tankards, and the silver porringers of our nurseries, would be about the whole.

Sir, if there be any aristocrats in Massachusetts, the people are all aristocrats; because I do not believe there is on earth, in a highly civilized society, a greater equality in the condition of men than exists there. If there be a man in the State who maintains what is called an equipage, has servants in livery, or drives four horses in his coach, I am not acquainted with him. On the other hand, there are few who are not able to carry their wives and daughters to church in some decent conveyance. It is no matter of regret or sorrow to us that few are very rich; but it is our pride and glory that few are very poor. It is our still higher pride, and our just boast, as I think, that all her citizens possess means of intelligence and education; and that, of all her productions, she reckons among the very chiefest those which spring from the culture of the mind and the heart.

Mr. President, one of the most striking characteristics of this age is the extraordinary progress which it has witnessed in popular knowledge. A new and powerful impulse has been acting in the social system of late, producing this effect in a most remarkable degree. In morals, in politics, in art, in literature, there is a vast accession to the number of readers and to the number of proficients. The present state of popular knowledge

is not the result of a slow and uniform progress, proceeding through a lapse of years, with the same regular degree of motion. It is evidently the result of some new causes, brought into powerful action, and producing their consequences rapidly and strikingly. What, Sir, are these causes?

This is not an occasion, Sir, for discussing such a question at length; allow me to say, however, that the improved state of popular knowledge is but the necessary result of the improved condition of the great mass of the people. Knowledge is not one of our merely physical wants. Life may be sustained without it. But, in order to live, men must be fed and clothed and sheltered; and in a state of things in which one's whole labor can do no more than procure clothes, food, and shelter, he can have no time nor means for mental improvement. Knowledge, therefore, is not attained, and cannot be attained, till there is some degree of respite from daily manual toil and never-ending drudgery. Whenever a less degree of labor will produce the absolute necessaries of life, then there come leisure and means both to teach and to learn.

If this great and wonderful extension of popular knowledge be the result of an improved condition, it may, in the next place, well be asked, What are the causes which have thus suddenly produced that great improvement? How is it that the means of food, clothing, and shelter are now so much more cheaply and abundantly procured than formerly? Sir, the main cause I take to be the progress of scientific art, or a new extension of the application of science to art. This it is which has so much distinguished the last half-century in Europe and in America; and its effects are everywhere visible, and especially among us. Man has found new allies and auxiliaries in the powers of nature and in the inventions of mechanism.

The general doctrine of political economy is, that wealth consists in whatever is useful or convenient to man, and that labor is the producing cause of all this wealth. This is very true. But, then, what is labor? In the sense of political writers, and in common language, it means human industry; in a philosophical view, it may receive a much more comprehensive meaning. It is not, in that view, human toil only, the mere action of thews and muscles; but it is any active agency which, working upon the materials with which the world is supplied,

brings forth products useful or convenient to man. The materials of wealth are in the earth, in the seas, and in their natural and unaided productions. Labor obtains these materials, works upon them, and fashions them to human use. Now it has been the object of scientific art, or of the application of science to art, to increase this active agency, to augment its power, by creating millions of laborers in the form of machines all but automatic, all to be diligently employed and kept at work by the force of natural powers. To this end these natural powers, principally those of steam and falling water, are subsidized and taken into human employment. Spinning-machines, power-looms, and all the mechanical devices, acting, among other operatives, in the factories and work-shops, are but so many laborers. They are usually denominated labor-*saving* machines, but it would be more just to call them labor-*doing* machines. They are made to be active agents; to have motion, and to produce effect; and though without intelligence, they are guided by laws of science, which are exact and perfect, and they produce results, therefore, in general, more accurate than the human hand is capable of producing. When we look upon one of these, we behold a mute fellow-laborer, of immense power, of mathematical exactness, and of ever-during and unwearied effort. And while he is thus a most skilful and productive laborer, he is a non-consumer, at least beyond the wants of his mechanical being. He is not clamorous for food, raiment, or shelter, and makes no demands for the expenses of education. The eating and drinking, the reading and writing, and the clothes-wearing world, are benefited by the labors of these coöperatives, in the same way as if Providence had provided for their service millions of beings, like ourselves in external appearance, able to labor and to toil, and yet requiring little or nothing for their own consumption or subsistence; or rather, as if Providence had created a race of giants, each of whom, demanding no more for his support and consumption than a common laborer, should yet be able to perform the work of a hundred.

Now, Sir, turn back to the Massachusetts tables of production, and you will see that it is these automatic allies and coöperators, and these powers of nature, thus employed and placed under human direction, which have come, with such prodigious effect, to man's aid, in the great business of procuring the means

of living, of comfort, and of wealth, and which have so swollen the products of her skilful industry. Look at these tables once more, Sir, and you will see the effects of labor, united with and acting upon capital. Look yet again, and you will see that credit, mutual trust, prompt and punctual dealings, and commercial confidence, are all mixed up as indispensable elements in the general system.

I will ask you to look yet once more, Sir, and you will perceive that general competence, great equality in human condition, a degree of popular knowledge and intelligence nowhere surpassed, if anywhere equalled, the prevalence of good moral sentiment, and extraordinary general prosperity, are the result of the whole. Sir, I have done with Massachusetts. I do not praise the old "Bay State" of the Revolution; I only present her as she is.

Mr. President, such is the state of things actually existing in the country, and of which I have now given you a sample. And yet there are persons who constantly clamor against this state of things. They call it aristocracy. They excite the poor to make war upon the rich, while in truth they know not who are either rich or poor. They complain of oppression, speculation, and the pernicious influence of accumulated wealth. They cry out loudly against all banks and corporations, and all the means by which small capitals become united, in order to produce important and beneficial results. They carry on a mad hostility against all established institutions. They would choke up the fountains of industry, and dry all its streams.

In a country of unbounded liberty, they clamor against oppression. In a country of perfect equality, they would move heaven and earth against privilege and monopoly. In a country where property is more equally divided than anywhere else, they rend the air with the shouting of agrarian doctrines. In a country where the wages of labor are high beyond all parallel, and where lands are cheap, and the means of living low, they would teach the laborer that he is but an oppressed slave. Sir, what can such men want? What do they mean? They can want nothing, Sir, but to enjoy the fruits of other men's labor. They can mean nothing but disturbance and disorder, the diffusion of corrupt principles, and the destruction of the moral sentiments and moral habits of society. A licentiousness of

feeling and of action is sometimes produced by prosperity itself. Men cannot always resist the temptation to which they are exposed by the very abundance of the bounties of Providence, and the very happiness of their own condition; as the steed, full of the pasture, will sometimes throw himself against its inclosures, break away from its confinement, and, feeling now free from needless restraint, betake himself to the moors and barrens, where want, ere long, brings him to his senses, and starvation and death close his career.

Having said so much, Sir, on the general condition of the country, and explained what I understand by credit, I proceed to consider the present actual state of the currency.

The most recent treasury estimate which I have seen supposes that there are eighty millions of metallic money now in the country. This I believe, however, to be a good deal too high; I cannot believe it exceeds sixty, at most; and supposing one half this sum to be in the banks, thirty millions are in circulation or in private hands. We have seven hundred banks and branches, with capitals assigned for the security of their notes and bills amounting to two hundred and eighty millions. The amount of bank-notes in actual circulation is supposed to be one hundred millions; so that our whole circulation is about one hundred and thirty millions. The amount of debts due to the banks, or the amount of their loans and discounts, may be taken at four hundred and fifty millions.

Now, Sir, this very short statement exhibits at once a general outline of our existing system of currency and credit. We see a great amount of money or property in banks as their assigned and appropriate capital, and we see a great amount due to these banks. These bank debtors generally belong to the classes of active business men, or are such as have taken up credits for purposes of investment in lands or merchandise, looking to future proceeds as the means of repayment. If we compare this state of circulation of bank capital and bank debt with the same things in England, important differences will not fail to strike us.

The whole paper circulation of England, by the latest accounts, is twenty-eight millions sterling, made up of eighteen millions of Bank of England notes, and ten millions of the notes

of private bankers and joint-stock companies; bullion in the bank, nine and a half millions; debts due the Bank of England, twenty-two and a half millions. The amount of loans and discounts by private bankers and joint-stock companies is not usually stated, I believe, in the public accounts. If it bear the same proportion to their notes in circulation as in the case of the Bank of England, it would exceed twelve millions. We may, therefore, take the amount of bank debts in England to be thirty-five millions. But I suppose that, of the securities held by the Bank of England, exchequer notes constitute a large part; in other words, that a large part of the bank debt is due by government. The amount of coin in actual circulation is estimated to be thirty and a half millions. The whole amount of circulation in England, metallic and paper, is usually stated, in round numbers, at sixty millions, which, rating the pound sterling at $4.80, is equal to two hundred and eighty-eight millions of dollars.

It will be seen, Sir, that our paper circulation is one half less than that of England, but our bank debt is, nevertheless, much greater; since thirty-five millions sterling amount to only one hundred and sixty-eight millions of dollars; and this sum, too, includes the amount of exchequer bills, or government debt in the form of such bills, which the bank holds. These facts are very material to any just comparison of the state of things in the two countries. The whole, or nearly the whole, capital of the Bank of England is lent to government, not by means of exchequer notes, but on a permanent loan. And as to the private banks and joint-stock companies, though they issue bills for circulation, they have no assigned or appropriated capital whatever. The bills circulate on the private credit of the individual banker, or of those who compose the joint-stock companies. In the United States, an amount of capital supposed to be sufficient to sustain the credit of the paper and secure the public against loss is provided by law in the act of incorporation for each bank, and is assigned as a trust fund for the payment of the liabilities of the bank. If this capital be fairly and substantially advanced, it is a proper security; and in most cases, no doubt, it is substantially advanced. The directors are trustees of this fund, and they are liable, both civilly and criminally, for mismanagement, embezzlement, or breach of trust.

This amount of capital, thus secured, is the basis of loans and discounts; and this is the reason why permanent loans, or at least loans for a long time, are not considered so inappropriate to banking operations with us, as they are in England. With us, it is evident that the directors are agents, holding a fund intended to be loaned, and acting between lender and borrower; and this form of loan has been found exceedingly convenient and useful in the country.

In some States, it is greatly preferred to mortgages, though there are others in which mortgages are more usual. Whether exactly conformable to the true notion of banking or not, the truth is that the object and operation of our banks is to lend money; and this is mostly on personal security. The system, no doubt, is liable to abuse in particular instances. There may be directors who will lend too freely to themselves and their friends. Gross cases of this kind have recently been detected and exposed, and, I hope, will be suitably treated; but, considering the great number of banks, these instances, I think, are remarkably few. In general, the banks have been well conducted, and are believed to be solvent and safe.

We have heard much, Sir, in the course of this debate, of excess in the issue of bank-notes for circulation. I have no doubt, that there was a very improper expansion some years ago. When President Jackson, in 1832, had negatived the bill for continuing the Bank of the United States (which act I esteem to be the true original source of all the disorders of the currency), a vast addition was immediately made to the number of State banks. In 1833, the public deposits were actually removed from the Bank of the United States, although its charter was not to expire till 1836, and placed in selected State banks. And, for the purpose of showing how much better the public would be accommodated without than with a Bank of the United States, these banks were not only encouraged, but admonished, to be free and liberal in loans and discounts, made on the strength of the public moneys, to merchants and other individuals. The circular letter from the Treasury Department, addressed to the new deposit banks, under date of the 26th of September, 1833, has this significant clause, which could not have been misunderstood: —

"The deposits of public money will enable you to afford increased

facilities to commerce, and to extend your accommodation to individuals; and as the duties which are payable to the government arise from the business and enterprise of the merchants engaged in foreign trade, it is but reasonable that they should be preferred in the additional accommodation which the public deposits will enable your institution to give, whenever it can be done without injustice to the claims of other classes of the community."

Having read this letter, Sir, I ask leave to refer the Senate to the twentieth section of the bill now before us. There we find that, "if any officer, charged with the safe-keeping of the public money, shall loan the same, or any portion thereof, with or without interest, such act shall be deemed an embezzlement and a high misdemeanor, and the party convicted thereof shall be sentenced to imprisonment." Sir, what a pretty piece of consistency is here! In 1833 the depositaries of the public money were not even left to their own desire for gain, or their wishes to accommodate others, as being sufficient incentives to lend it out. They were admonished and directed to afford increased facilities to commerce, and to extend their accommodation to individuals, since the public moneys in their vaults would enable them to give such additional accommodation. Now, Sir, under this bill, any officer who shall do any one of the same things, instead of being praised, is to be punished; he is to be adjudged guilty of embezzlement and of a high misdemeanor, and is to be confined, for aught I know, in cells as dark and dismal as the vaults and safes which are to contain our metallic currency. But although I think, Sir, that the acts of government created this expansion, yet I am certainly of opinion that there was a very undue expansion created. A contraction, however, had begun; and I am of opinion, that, had it not been for the specie order of July, 1836, and for the manner in which the deposit law was executed, the banks would have gone through the crisis without suspension. This is my full and firm belief. I cannot, however, discuss these points here. They were treated with very great ability, last year, by a gentleman who then occupied a seat on this floor as a Senator from Georgia. If there are any persons whom he did not satisfy, I cannot hope to convince them. Still, Sir, the question is, whether there was an excess in the general amount of our circulation in May last, or whether there is now such excess.

By what standard is this to be judged? If the question be, whether there be too much paper in circulation, it may be answered by reference to the amount of coin in the banks from which the paper issues; because I am decidedly of opinion, an opinion which I believe nothing can ever shake, that the true criterion by which to decide the question of excess, in a convertible paper currency, is the amount of that paper compared with the gold and silver in the banks. Such excess would not be proved, absolutely and certainly, in every case, by the mere fact of the suspension of specie payments; because such an event might be produced by panic, or other sudden cause, having power to disturb the best regulated system of paper circulation. But the immediate question now is, whether, taking the whole circulation together, both metallic and paper, there was an excess existing in May, or is an excess now existing. Are one hundred and thirty millions an excessive or undue amount of circulation for the United States? Seeing that one part of this circulation is coin, and the other part paper, resting upon coin, and intended to be convertible, is the whole mass more than may be fairly judged necessary to represent the property, the transactions, and the business of the country? Or, in order to sustain such an amount of circulation, and to keep that part of it which is composed of paper in a safe state, should we be obliged to attempt to draw to ourselves more than our just proportion of the aggregate of the metallic money of all the commercial nations? These questions appear to me to be but different modes of stating the same inquiry.

Upon this subject we may, perhaps, form some general idea, by comparing ourselves with others. Various things, no doubt, exist, in different places and countries, to modify, either by enlarging or diminishing, the demand for money or currency in the transactions of business; still, the amount of trade and commerce may furnish a general element of comparison between different states or nations. The aggregate of American imports and exports in 1836 was three hundred and eighteen millions; the corresponding aggregate in England, again reckoning the pound sterling at $4.80, was four hundred and eighty millions, as near as I can ascertain; the currency of England being, as already stated, sixty millions sterling, or two hundred and eighty-eight millions of dollars. If we work out a result from these propor-

tions, the currency of the United States, it will be found, should be one hundred and ninety millions, in order to be equal to that of England; but, according to the estimates of the treasury, it did not, even in that year, exceed one hundred and eighty millions.

Our population is about equal to that of England and Wales; the amount of our mercantile tonnage, perhaps one fifth less. But then we are to consider that our country is vastly wider; and our facilities of internal exchange, by means of bills of exchange, greatly less. Indeed, there are branches of our intercourse in which remittances cannot be well made except in currency. Take one example. The agricultural products of Kentucky are sold to the South; her purchases of commodities made at the North. There can be, therefore, very little of direct exchange between her and the places of purchase and sale. The trade goes round in a circle. For this reason, while the Bank of the United States existed, payments were made to a vast amount in the North and East, by citizens of Kentucky, and of the States similarly situated, not in bills of exchange, but in the notes of the Bank.

These considerations augment the demand for currency. More than all, the country is new, Sir; almost the whole of our capital active; and the entire amount of property of all kinds rapidly increasing. During the last three years, thirty-seven millions of acres of land have been separated from the wilderness, purchased, paid for, and become subject to private, individual ownership, to transfer and sale, and all the other dispositions to which real estate is subject. It has thus become property, to be bought and sold for money; whereas, while in the hands of government, it called for no expenditure, formed the basis of no transactions, and created no demand for currency. Within that short period, our people have bought from government a territory as large as the whole of England and Wales, and, taken together, far more fertile by nature. This seems incredible, yet the returns show it. Suppose all this to have been bought at the minimum price of a dollar and a quarter per acre; and suppose the value to be increased in the common ratio in which we know the value of land is increased by such purchase, and by the preliminary steps and beginnings of cultivation; an immense augmentation, it will readily be per-

ceived, is made, even in so short a time, of the aggregate of property, in nominal price, and, to a great extent, in real value also.

On the whole, Sir, I confess I know no standard by which I can decide that our circulation is at present in excess. I do not believe it is so. Nor was there, as I think, any depreciation in the value of money, up to the moment of the suspension of specie payments by the banks, comparing our currency with the currency of other nations. An American paper dollar would buy a silver dollar in England, deducting only the charge of transporting a dollar across the ocean, because it commanded a silver dollar here. There may be excess, however, I admit, where there is no present depreciation, in the sense in which I now use the term.

It is hardly necessary to dwell, Mr. President, on the evils of a suddenly diminished circulation. It arrests business, puts an end to it, and overwhelms all debtors, by depression and downfall of prices. And even if we reduce circulation, not suddenly, but still reduce it farther than is necessary to keep it within just and reasonable limits, we produce many mischiefs; we augment the necessity of foreign loans; we contract business, discourage enterprise, slacken the activity of capital, and restrain the commercial spirit of the country. It is very important to be remembered, Sir, that, in our intercourse with other nations, we are acting on a principle of equality; that is to say, we do not protect our own shipping interest by peculiar privileges; we ask a clear field, and seek no favor. Yet the materials for ship-building are high with us, and the wages of shipbuilders and seamen are high also. We have to contend against these unfavorable circumstances; and if, in addition to these, we are to suffer further by unnecessary restraints on currency, and by a cramped credit, who can tell what may be the effect? Money is abundant in England, very abundant; the rate of interest, therefore, is low, and capital will be seeking its investment wherever it can hope to find it. If we derange our own currency, compulsively curtail circulation, and break up credit, how are the commerce and navigation of the United States to maintain themselves against foreign competition?

Before leaving, altogether, this subject of an excessive circulation, Mr. President, I will say a few words upon a topic which,

if time would permit, I should be glad to consider at greater length; I mean, Sir, the proper guards and securities for a paper circulation. I have occasionally addressed the Senate on this subject before, especially in the debate on the specie circular, in December, 1836; but I wish to recur to it again, because I hold it to be of the utmost importance to prove, if it can be proved, to the satisfaction of the country, that a convertible paper currency may be so guarded as to be secure against probable dangers. I say, Sir, a convertible paper currency; for I lay it down as an unquestionable truth, that no paper can be made equal, and kept equal, to gold and silver, but such as is convertible into gold and silver, on demand. But I have gone farther, and still go farther than this; and I contend that even convertibility, though itself indispensable, is not a certain and unfailing ground of reliance. There is a liability to excessive issues of paper, even while paper is convertible at will. Of this there can be no doubt. Where, then, shall a regulator be found? What principle of prevention may we rely on?

Now I think, Sir, it is too common with banks, in judging of their condition, to set off all their liabilities against all their resources. They look to the quantity of specie in their vaults, and to the notes and bills becoming payable, as means or assets; and, with these, they expect to be able to meet their returning notes, and to answer the claims of depositors. So far as the bank is to be regarded as a mere bank of discount, all this is very well. But banks of circulation exercise another function. By the very act of issuing their own paper, they affect the general amount of currency. In England the Bank of England, and in the United States all the banks, expand or contract the amount of circulation, of course, as they increase or curtail the general amount of their own paper. And this renders it necessary that they should be regulated and controlled. The question is, In what way? To this I answer, by subjecting all banks to the rule which the most discreet of them always follow, namely, by compelling them to maintain a certain fixed proportion between specie and circulation; without regarding deposits on one hand, or notes payable on the other.

There will always occur occasional fluctuations in trade, and a demand for specie, by one country on another, will arise. It is too much the practice, when such occurrences take place, and

specie is leaving the country, for banks to issue more paper, in order to prevent a scarcity of money. But exactly the opposite course should be adopted. A demand for specie to go abroad should be regarded as conclusive evidence of the necessity of contracting circulation. If, indeed, in such cases, it could be certainly known that the demand would be of short duration, the temporary pressure might be relieved by an issue of paper to fill the place of departing specie. But this never can be known. There is no safety, therefore, but in meeting the case at the moment, and in conforming to the infallible index of the exchanges. Circulating paper is thus kept always nearer to the character and to the circumstances of that of which it is designed to be the representative, the metallic money. This subject might be pursued, I think, and clearly illustrated; but for the present I only express my belief that, with experience before us, and with the lights which recent discussions, both in Europe and America, hold out, a national bank might be established, with more regard to its function of regulating currency than to its function of discount, on principles, and subject to regulations, such as should render its operations extremely useful; and I should hope that, with an example before them of plain and eminent advantage, State institutions would conform to the same rules and principles; and that, in this way, all the advantages of convertible paper might be enjoyed, with just security against its dangers.

I have detained the Senate too long, Sir, with these observations upon the state of the country, and its pecuniary system and condition.

And now, when the banks have suspended payments, universally; when the internal exchanges are all deranged, and the business of the country most seriously interrupted; the questions are, whether the measure before us is suitable to our condition, and whether it is a just and proper exercise and fulfilment of the powers and duties of Congress.

What, then, Sir, will be the practical operation and effect of this measure, if it should become a law?

Like its predecessor of the last session, the bill proposes nothing for the general currency of the country; nothing to restore exchanges; nothing to bring about a speedy resumption of spe-

cie payments by the banks. Its whole professed object is the collection and disbursement of the public revenue. Some of its friends, indeed, say, that, when it shall go into operation, it will, *incidentally*, produce a favorable effect on the currency, by restraining the issue of bank paper. But others press it as if its effect was to be the final overthrow of all banks, and the introduction of an exclusive metallic currency for all the uses of the country.

Are we to understand, then, that it is intended by a series of measures, of which this is the first, to rid the country of all banks, as being but so many nuisances, and to abolish all paper currency whatever? Or is it expected, on the contrary, that, after this system shall be adopted for the use of government, there will still be a paper currency in the country for the use of the people? And if there shall still be a paper currency, will that currency consist of irredeemable government paper, or of convertible bank-notes, such as have circulated heretofore? These questions must be answered, before we can judge accurately of the operation of this bill.

As to an exclusive metallic currency, Sir, the administration on this point is regularly Janus-faced. Out doors, and among the people, it shows itself "all *clinquant*, all in gold." There, every thing is to be hard money; no paper rags, no delusive credits, no bank monopolies, no trust in paper of any kind. But in the Treasury Department, and in the houses of Congress, we see another aspect, a mixed appearance, partly gold and partly paper; gold for government, and paper for the people. The small voice which is heard here allows the absolute necessity of paper of some sort, and to some extent; while the shouts in the community demand the destruction of all banks, and the final extermination of all paper circulation.

To the people, the lion roars against paper money in all the terror of his natural voice; but to members of Congress he is more discreet; lest he should frighten them out of their wits, he here restrains and modulates, and roars "as gently as any sucking dove," or "an 't were any nightingale." The impracticability of an exclusive metallic currency, the absurdity of attempting any such thing in a country like this, is so manifest, that nobody here undertakes to support it by any reasoning or argument. All that is said in its favor is general denunciation of

paper, boisterous outcry against the banks, and declamation against existing institutions, full of sound and fury, signifying nothing.

The moment any one considers it, he sees how ridiculous any such attempt would be. An exclusive metallic circulation for the second commercial country on earth, in the nineteenth century! Sir, you might as well propose to abolish commerce altogether.

The currency of England is estimated at sixty millions sterling; and it is Mr. McCulloch's calculation, that if this currency were all gold, allowing only one quarter of one per cent. for wear of metals, the annual expense attending such a currency would be three millions and a quarter a year, or nearly five per cent. upon the whole. With us, this charge would be much greater. The loss of capital would be more, owing to the higher rates of interest; and besides all this is the cost of transportation, which, in a country so extensive as ours, would be vast, and not easily calculated. We should also require proportionally more specie than is requisite in England, because our system of exchange, by means of bills of exchange, is at present, and would be under such a system as is proposed, much less perfect and convenient than that of England. Besides, the English metallic circulation is mostly gold, that being in England the standard metal. With us, silver and gold both are made standards, at a fixed relation; and if we should succeed to keep this relation so true as to preserve both of the precious metals among us (which, indeed, is not very probable), our circulation would be still more expensive and cumbrous, from the quantity of silver which it would contain. The silver in the world is estimated to be fifty times as much as the gold in amount, and consequently something more than three times in value. If both should circulate, therefore, equally in proportion to value, the currency would be three parts silver and one part gold.

Now, Sir, the annual expense of such a circulation, upon the basis of Mr. McCulloch's estimate, would exceed the whole annual expenditure made for our army and our navy. Consider, Sir, the amount of actual daily payments made in the country. It is difficult to estimate it, and quite impossible to ascertain it, with any accuracy. But we can form some notion of it by the daily amount of payments in the banks in some of the cities.

In times of prosperous business and commerce, the daily amount of payments in the banks of New York alone has been equal to eight millions. Whether we call this a tenth, a twentieth, or a fiftieth part of all the payments and receipts made daily in the country, we see to what an aggregate result the whole would rise. And how is it possible that such an amount of receipt and payment could be performed by an actual passing of gold and silver from hand to hand? Such notions, Sir, hardly require serious refutation.

Mr. President, an entire metallic currency would necessarily create banks immediately. Where would the money be kept, or how could it be remitted? Banks of deposit must and would be instantly provided for it. Would the merchants of the cities be seen, in their daily walks of business, with servants behind them with bags of gold and kegs of silver on their wheelbarrows? What folly is great enough to imagine this? If there were not now a bank-note nor a bank in the country, and if there should be an exclusive specie currency to-morrow morning at nine o'clock, there would be fifty banks before sunset. From necessity, there would be created at once places of deposit; and persons having money in such depositories would draw checks for it, and pass these checks as money, and from one hand they would pass to another; or the depositary himself would issue certificates of deposit, and these would pass as currency. And all this would do no more than just to carry us back two or three hundred years, to the infancy of banks. We should then have done nothing but reject the experience of the most civilized nations for some centuries, as well as all our own experience, and have returned to the rude conceptions of former times. These certificates of deposit would soon be found to be often issued without any solid capital or actual deposit. Abuses arising from this source would call for legislative interference, and the legislature would find it necessary to restrain the issue of paper intended for circulation by enacting that such issues should only be made on the strength of competent capital, actually provided and assigned, placed under proper regulation, and managed by persons responsible to the laws. And this would bring us again exactly to the state of things in which we now are; that is to say, to the use of the paper of banks, established, regulated, and controlled by law. In the mean time, before this process could be

carried through, half the community would be made bankrupt by the ruin of their business, and by the violent and revolutionary changes of property which the process would create. The whole class of debtors, all that live more by industry than on capital, would be overwhelmed with undistinguishing destruction.

There will then, Sir, be no such thing as an exclusive metallic currency. The country will not be guilty of the folly of attempting it.

I should have felt that I had occupied too much time with such a senseless and preposterous suggestion, were it not the manifest object of partisans to press such notions upon the attention of the people, in aid of the war against the banks.

We shall then, Sir, have paper of some sort, forming a part of our currency. What will that paper be? The honorable gentleman from South Carolina, admitting that paper is necessary as a part of the currency, or circulation, has contended that that paper ought to be government paper, — government paper, not convertible nor redeemable except by being receivable for debts and dues to government. My colleague * has endeavored to satisfy the Senate, that the aim of the whole system, of which he regards this bill as but part, is to establish a circulation of government paper and a government bank. Other gentlemen have taken the same view of it. But, as the bill itself does not profess any such purpose, I am willing to discuss it in the character in which it presents itself. I take it for what its friends say it is, a bill making further provision for collecting the revenues.

We are then, Sir, still to have paper as a general medium of circulation; that paper is to be the paper of banks. But government is to be divorced from these banks altogether. It is not to keep its funds in them, as heretofore. It is to have nothing to do with them, is not to receive their notes, but is to collect and disburse its revenues by its own means and its own officers. The receipt of the notes of specie-paying banks is to be partially allowed for some time, but it is to be gradually discontinued; and six years hence we are to arrive at the maturity and the perfection of the system. When that auspicious day

* Hon. John Davis.

comes, government is to receive and to pay out gold and silver, and nothing but gold and silver.

Now, Mr. President, let us anticipate this joyous epoch; let us suppose the six years to have expired; and let us imagine this bill, with its specie payments and all, as in full operation. What will that operation be? In the first place, disregarding all question of public convenience, or the general interests of the people, how will this system work as a mere mode of collecting and paying out revenue? Let us see.

Our receipts and expenditures may be estimated, each, at thirty millions a year. Those who think this estimate either too high or too low, may make the necessary allowance. Here, then, is the sum of thirty millions, to be collected and paid out every year; and it is all to be counted, actually told over, dollar after dollar, and gold piece after gold piece; and how many times counted? Let us inquire into that. The importing merchant, whose ship has arrived, and who has cash duties to pay, goes to the bank for his money, and the tellers count it out; that is once. He carries it to the custom-house, pays it, and the clerks count it over; that is twice. Some days afterwards, the collector takes it out of his bags and chests, carries it to the receiver-general's office, and there it is counted again, and poured into the bags and chests of that office; that is the third time. Presently a warrant comes from the treasury, in favor of some disbursing officer, and the boxes are opened, and the necessary sums counted out; this is the fourth counting. And, fifthly and lastly, the disbursing officer pays it to the persons entitled to receive it, on contracts, or for pensions, salaries, or other claims. Thirty millions of hard money are thus to be handled and told over five times in the course of the year; and if there be transfers from place to place, then, of course, it is to be counted so much oftener. Government officers, therefore, are to count over one hundred and fifty millions of dollars a year; which, allowing three hundred working days to the year, gives five hundred thousand dollars a day. But this is not all. Once a quarter, the naval officer is to count the collector's money, and the register in the land-office is to count the receiver's money. And moreover, Sir, every now and then the Secretary of the Treasury is to authorize unexpected and *impromptu* countings, in his discretion, and just to satisfy his own mind!

Sir, what a money-counting, tinkling, jingling generation we shall be! All the money-changers in Solomon's temple will be as nothing to us. Our sound will go forth unto all lands. We shall all be like the king in the ditty of the nursery:

"There sat the king a counting of his money."

You will observe, Sir, that these receipts and payments cannot be made in parcels, without the actual handling of each piece of coin. The marks on kegs of dollars, and the labels on bags of gold, are not to be trusted. They are a part of *credit*, and all credit, all trust, all confidence, is to be done away with. When the surveyor, for instance, at the custom-house, is to *examine the money on hand*, in possession of the collector or receiver-general, he is, of course, to count the money. No other examination can come to any thing. He cannot tell, from external appearance, nor from the weight, whether the collector has loaned out the money, and filled the bags and boxes up with sand and lead, or not. Nor can counterfeit pieces be otherwise detected than by actual handling. He must open, he must examine, he must count. And so at the land offices, the mints, and elsewhere. If these officers shall have a taste for silver sounds, they are all likely to be gratified.

Mr. President, in all soberness, is not this whole operation preposterous? It begins by proposing to *keep* the public moneys. This itself, in the sense in which the word is here used, is a perfect novelty, especially in the United States. Why *keep* the public moneys? that is to say, why hoard them, why *keep* them out of use? The use of money is in the exchange. It is designed to circulate, not to be hoarded. All that government should have to do with it is to receive it to-day, that it may pay it away to-morrow. It should not receive it before it needs it; and it should part with it as soon as it owes it. To *keep* it, that is, to detain it, to hold it back from general use, to hoard it, is a conception belonging to barbarous times and barbarous governments. How would it strike us, if we should see other great commercial nations acting upon such a system? If England, with a revenue of fifty millions sterling a year, were found to be collecting and disbursing every shilling of it in hard money, through all the ramifications of her vast expenditure, should we not think her mad? But the system is worse here, because it

withdraws just so much active capital from the uses of a country that requires capital, and is paying interest for capital wherever it can obtain it.

But now, Sir, allow me to examine the operation of this measure upon the general interest of commerce and upon the general currency of the country. And in this point of view the first great question is, *What amount of gold and silver will this operation subtract from the circulation of the country, and from the use of the banks?*

In regard to this important inquiry, we are not without the means of forming some judgment. An official report from the treasury, made to the other house, shows that, for the last ten years, there has been, at the end of each year, on an average, fifteen million and four hundred thousand dollars in the treasury; and this sum is exclusive of all that had been collected of the people, but had not yet reached the treasury, and also of all that had been drawn from the treasury by disbursing officers, but which had not yet been by them paid to individuals. Add these sums together, Sir, and the result is, that on an average, for the last ten years, there have been at least twenty millions of dollars in the treasury. I do not mean, of course, that this sum is, the whole of it, unappropriated. I mean that this amount has in fact been in the treasury, either not appropriated or not called for under appropriations; so that if this sub-treasury scheme had been in operation in times past, twenty millions of the specie in the country would have been constantly locked up in the safes and vaults. Now, Sir, I do not believe that, for these ten years, the whole amount of silver and gold in the country has exceeded, on the average, fifty or sixty millions. I do not believe it exceeds sixty millions at the present moment; and if we had now the whole system in complete operation, it would lock up, and keep locked up, one full third of all the specie in the country; locked up, I say, hoarded, rendered as useless, for all purposes of commerce and business, as if it were carried back to its native mines. Sir, is it not inconceivable that any man should fall upon such a scheme of policy as this? Is it possible that any one can fail to see the destructive effects of such a policy on the commerce and the currency of the country?

It is true, the system does not come into operation all at once.

But it begins its demands for specie immediately; it calls upon the banks, and it calls upon individuals, for their hard dollars, that they may be put away and locked up in the treasury, at the very moment when the country is suffering for want of more specie in the circulation, and the banks are suffering for means to enable them to resume their payments. And this, it is expected, will improve the currency and facilitate resumption!

It has heretofore been asserted, that the general currency of the country needed to be strengthened by the introduction of more specie into the circulation. This has been insisted on for years. Let it be conceded. I have admitted it, and, indeed, contended for the proposition heretofore, and endeavored to prove it. But it must be plain to every body, that any addition of specie, in order to be useful, must either go into the circulation as a part of that circulation, or else it must go into the banks to enable them the better to sustain and redeem their paper. But this bill is calculated to promote neither of those ends, but exactly the reverse. It withdraws specie from the circulation and from the banks, and piles it up in useless heaps in the treasury. It weakens the general circulation, by making the portion of specie which is part of it so much the less; it weakens the banks, by reducing the amount of coin which supports their paper. The general evil imputed to our currency, for some years past, is, that paper has formed too great a portion of it. The operation of this measure must be to increase that very evil. I have admitted the evil, and have concurred in measures to remedy it. I have favored the withdrawing of small bills from circulation, to the end that specie might take their place. I discussed this policy, and supported it, as early as 1832. My colleague, who, shortly after that period, was placed in the chair of the chief magistracy of Massachusetts, pressed its consideration at length upon the attention of the legislature of that State. I still think it was a sound policy. Some of the States had begun to adopt it. But the measures of the administration, and especially this proposed measure, throw this policy all aback. They undo at once all that we have been laboring to accomplish. Such, and so pertinacious, has been the demand of government for specie, and such new demand does this bill promise to create, that the States have found themselves compelled again to issue small

bills for the use of the people. It was a day of rejoicing, as we have lately seen, among the people of New York, when the legislature of that State suspended the small-bill restraining law, and furnished the people with some medium for small payments better than the miserable trash which now annoys the community.

The government, therefore, I insist, is evidently breaking down its own declared policy; it is defeating, openly and manifestly defeating, its own professed objects.

And yet theory, imagination, presumptuous generalization, the application of military movements to questions of commerce and finance, and the abstractions of metaphysics, offer us, in such a state of things, their panacea. And what is it? What is it? What is to cure or mitigate these evils, or what is to ward off future calamities? Why, Sir, the most agreeable remedy imaginable; the kindest, tenderest, most soothing, and solacing application in the whole world! Nothing, Sir, nothing upon earth, but a smart, delightful, perpetual, and irreconcilable warfare between the government of the United States and the State banks! All will be well, we are assured, when the government and the banks become antagonistical! Yes, Sir, "antagonistical"! that is the word. What a stroke of policy is this! It is as delicate a stratagem as poor old King Lear's, and a good deal like it. It proposes that we should tread lightly along, in felt or on velvet, till we get the banks within our power, and then, "Kill, kill, kill!"

Sir, we may talk as much as we please about the resumption of specie payments; but I tell you that, with government thus warring upon the banks, if resumption should take place, another suspension, I fear, would follow. It is not war, successful or unsuccessful, between government and the banks; it is only peace, trust, confidence, that can restore the prosperity of the country. This system of perpetual annoyance to the banks, this hoarding up of money which the country demands for its own necessary uses, this bringing of the whole revenue to act, not in aid and furtherance, but in direct hinderance and embarrassment of commerce and business, is utterly irreconcilable with the public interest. We shall see no return of former times till it be abandoned, altogether abandoned. The passage of this bill will only create new alarm and new distress.

People begin already to fear their own government. They have an actual dread of those who should be their protectors and guardians. There are hundreds of thousands of honest and industrious men, Sir, at this very moment, who would feel relieved in their circumstances, who would see a better prospect of an honest livelihood, and feel more sure of the means of food and clothing for their wives and children, if they should hear that this measure had received its death. Let us, then, Sir, away with it. Do we not see the world prosperous around us? Do we not see other governments and other nations, enlightened by experience, and rejecting arrogant innovations and theoretic dreams, accomplishing the great ends of society? Why, Sir, why are we, why are we alone among the great commercial states, to be kept on the rack and torture of these experiments? We have powers, adequate, complete powers. We need only to exercise them; we need only to perform our constitutional duty, and we shall spread content, cheerfulness, and joy over the whole land.

This brings me, Sir, to the second inquiry. Is this measure, Mr. President, a just exercise of the powers of Congress, and does it fulfil all our duties?

I have so often discussed this point, I have so constantly insisted, for several years past, on the constitutional obligation of Congress to take care of the currency, that the Senate must be already tired of the speaker, if not weary of the topic; and yet, after all, this is the great and paramount question. Until this is settled, the agitation can never be quieted. If we have not the power, we must leave the whole subject in the hands of those who have it, or in no hands; but if we have the power, we are bound to exercise it, and every day's neglect is a violation of duty. I therefore again insist, that we have the power, and I again press its exercise on the two houses of Congress. I again assert, that the regulation of the general currency, of the money of the country, whatever actually constitutes that money, is one of our solemn duties.

The Constitution confers on us, Sir, the exclusive power of coinage. This must have been done for the purpose of enabling Congress to establish one uniform basis for the whole money system. Congress, therefore, and Congress alone, has

power over the foundation, the groundwork, of the currency; and it would be strange and anomalous, having this, if it had nothing to do with the structure, the edifice, to be raised on this foundation. Convertible paper was already in circulation when the Constitution was framed, and must have been expected to continue and to increase. But the circulation of paper tends to displace coin; it may banish it altogether; at this very moment it has banished it. If, therefore, the power over the coin does not enable Congress to protect the coin, and to restrain any thing which would supersede it and abolish its use, the whole power becomes nugatory. If others may drive out the coin, and fill the country with paper which does not represent coin, of what use, I beg to know, is that exclusive power over coins and coinage which is given to Congress by the Constitution?

Gentlemen on the other side admit that it is the tendency of paper circulation to expel the coin; but then they say, that, for that very reason, they will withdraw from all connection with the general currency, and limit themselves to the single and narrow object of protecting the coin, and providing for payments to government. This seems to me to be a very strange way of reasoning, and a very strange course of political conduct. The coinage power was given to be used for the benefit of the whole country, and not merely to furnish a medium for the collection of revenue. The object was to secure, for the general use of the people, a sound and safe circulating medium. There can be no doubt of this intent. If any evil arises, threatening to destroy or endanger this medium or this currency, our duty is to meet it, not to retreat from it; to remedy it, not to let it alone; we are to control and correct the mischief, not to submit to it. Wherever paper is to circulate as subsidiary to coin, or as performing, in a greater or less degree, the function of coin, its regulation naturally belongs to the hands which hold the power over the coinage. This is a maxim admitted by all writers; it has been admitted and acted upon, on all necessary occasions, by our own government, throughout its whole history. Why will we now think ourselves wiser than all who have gone before us?

This conviction of what was the duty of government led to the establishment of the bank under the administration of Gen-

eral Washington. Mr. Madison, again, acted upon the same conviction in 1816, and Congress entirely agreed with him. On former occasions, I have referred the Senate, more than once, to the clear and emphatic opinions and language of Mr. Madison, in his messages in 1815 and 1816, and they ought to be referred to, again and again, and pressed upon the public attention.

And now let me say, Sir, that no man in our history has carried the doctrine farther, defended it with more ability, or acted upon it with more decision and effect, than the honorable member from South Carolina. His speech upon the bank bill, on the 26th of February, 1816, is strong, full, and conclusive. He has heretofore stated that some part of what he said on that occasion does not appear in the printed speech; but, whatever may have been left out by accident, that which is in the speech could not have got in by acccident. Such accidents do not happen. A close, well-conducted, and conclusive constitutional argument is not the result of an accident or of chance; and his argument on that occasion, as it seems to me, is perfectly conclusive. Nor could the gentleman who reported the speech, a gentleman of talent though he is, have framed such an argument, during the time occupied in preparing the report for the press. As to what is actually in the speech, therefore, there can be no mistake. The honorable gentleman, in that speech, founds the right of regulating the paper currency directly on the coinage power. "The only object," he says, "the framers of the Constitution could have in view, in giving to Congress the power to coin money, regulate the value thereof, and of foreign coin, must have been to give a steadiness and fixed value to the currency of the United States." The state of things, he insisted, existing at the time of the adoption of the Constitution, afforded an argument in support of the construction. There then existed, he said, a depreciated paper currency, which could only be regulated and made uniform by giving a power for that purpose to the general government.

He proceeded to say, that, by a sort of under-current, the power of Congress to regulate the money of the country had caved in, and upon its ruin had sprung up those institutions which then exercised the right of making money for and in the United States. "For gold and silver," he insisted, "are not the only money, but whatever is the medium of purchase and

sale; in which bank paper alone is now employed, and has, therefore, become the money of the country." "The right of making money," he added, "an attribute of sovereign power, a sacred and important right, is exercised by two hundred and sixty banks, scattered over every part of the United States."

Certainly, Sir, nothing can be clearer than this language; and, acting vigorously upon principles thus plainly laid down, he conducted the bank bill through the House of Representatives. On that occasion, he was the champion of the power of Congress over the currency, and others were willing to follow his lead.

But the bank bill was not all. The honorable gentleman went much farther. The bank, it was hoped and expected, would furnish a good paper currency to the extent of its own issues; but there was a vast quantity of bad paper in circulation, and it was possible that the mere influence of the bank, and the refusal to receive this bad money at the treasury, might not be able to banish it entirely from the country. The honorable member meant to make clean work. He meant that neither government nor people should suffer the evils of irredeemable paper. He therefore brought in another bill, entitled, "A Bill for the more effectual collection of the public revenue." By the provisions of this bill, he proposed to lay a direct stamp tax on the bills of State banks; and all notes of non-specie-paying banks were, by this stamp, to be branded with the following words, in distinct and legible characters, at length: "NOT A SPECIE NOTE." For the tax laid on such notes, there was to be no composition, no commutation; but it was to be specifically collected on every single bill issued, until those who issued such bills should announce to the Secretary of the Treasury, and prove to his satisfaction, that, after a day named in the bill, all their notes would be paid in specie on demand. And now how is it possible, Sir, for the author of such a measure as this to stand up and declare, that the power of Congress over the currency is limited to the mere regulation of the coin? So much for the authority of Congress, as it has heretofore been admitted and acknowledged, under the coinage power.

Nor, Sir, is the other source of power, in my opinion, at all more questionable. Congress has the supreme regulation of commerce. This gives it, necessarily, a superintendence over

all the interests, agencies, and instruments of commerce. The words are general, and they confer the whole power. When the end is given, all the usual means are given. Money is the chief instrument or agent of commerce; there can, indeed, be no commerce without it, which deserves the name. Congress must, therefore, regulate it as it regulates other indispensable commercial interests. If no means were to be used to this end but such as are particularly enumerated, the whole authority would be nugatory, because no means are particularly enumerated. We regulate ships, their tonnage, their measurement, the shipping articles, the medicine-chest, and various other things belonging to them; and for all this we have no authority but the general power to regulate commerce; none of these, nor any other means or modes of regulation, are particularly and expressly pointed out.

But is a ship a more important instrument of commerce than money? We protect a policy of insurance, because it is an important instrument of ordinary commercial contract; and our laws punish with death any master of a vessel, or others, who shall commit a fraud on the parties to this contract by casting away a vessel. For all this we have no express authority. We infer it from the general power of regulating commerce, and we exercise the power in this case, because a policy of insurance is one of the usual instruments, or means, of commerce. But how inconsiderable and unimportant is a policy of insurance, as the means or an instrument of commerce, compared with the whole circulating paper of a country!

Sir, the power *is* granted to us, and granted without any specification of means; and therefore we may lawfully exercise all the usual means. I need not particularize these means, nor state, at present, what they are or may be. One is, no doubt, a proper regulation of receipts at the custom-houses and land offices. But this, of itself, is not enough. Another is a national bank, which, I fully believe, would even now answer all desired purposes, and reinstate the currency in ninety days. These, I think, are the means to be first tried; and if, notwithstanding these, irredeemable paper should overwhelm us, others must be resorted to. We have no direct authority over State banks; but we have power over the currency, and we must protect it, always using, of course, such means, if they be found adequate,

as shall be most gentle and mild. The great measure, Sir, is a bank; because a bank is not only able to restrain the excessive issues of State banks, but it is able also to furnish for the country a currency of universal credit and of uniform value. This is the grand desideratum. Until such a currency is established, depend upon it, Sir, what is necessary for the prosperity of the country can never be accomplished.

On the question of power, Sir, we have a very important and striking precedent. The members of the Senate, Mr. President, will recollect the controversy between New York and her neighbor States, fifteen or sixteen years ago, upon the exclusive right of steam navigation. New York had granted an exclusive right of such navigation over her waters to Mr. Fulton and his associates; and declared by law that no vessel propelled by steam should navigate the North River or the Sound, without license from these grantees, under penalty of confiscation. To counteract this law, the legislature of New Jersey enacted, that if any citizen of hers should be restrained, or injured, in person or property, by any party acting under the law of New York, such citizen should have remedy in her courts, if the offender could be caught within her territory, and should be entitled to treble damages and costs. New Jersey called this act a *law of retortion;* and justified it on the general ground of *reprisals.* On the other side, Connecticut took fire, and, as no steamboat could come down the Sound from New York to Connecticut, or pass up from Connecticut to New York, without a New York license, she enacted a law by which heavy penalties were imposed upon all who should presume to come into her ports and harbors, having any such license.

Here, Sir, was a very harmonious state of commercial intercourse! a very promising condition of things, indeed! You could not get from New York to New Haven by steam; nor could you go from New York to New Jersey, without transshipment in the bay. And now, Sir, let me remind the country that this belligerent legislation of the States concerned was justified and defended by exactly the same arguments as those which we have heard in this debate. Every thing which has been said here, to prove that the authority to regulate commerce does not include a power to regulate currency, was said in that case, to prove that the same authority did not include an exclu-

sive power over steamboats or other means of navigation. I do not know a reason, a suggestion, an idea, which has been used in this debate, or which was used in the debate in September, to show that Congress has no power to control the currency of the country, and make it uniform, which was not used in this steamboat controversy, to prove that the authority of this government did not reach the matter then in dispute. Look to the forensic discussions in New York. Look to the argument in the court here. You will find it everywhere urged, that *navigation* does not come within the general idea of regulating commerce; that steamboats are but vehicles and instruments; that the power of Congress is general, and general only; and that it does not extend to agents and instruments.

And what, Sir, put an end to this state of things? What stopped these seizures and confiscations? Nothing in the world, but the exercise of the constitutional power of this government. Nothing in the world, but the decision of the Supreme Court, that the power of Congress to regulate commerce was paramount; that it overruled any interfering State laws; and that these acts of the States did interfere with acts of Congress, enacted under its clear constitutional authority.

As to the extent of the power of regulating commerce, allow me to quote a single sentence from the opinion of one of the learned judges of the Supreme Court, delivered on that occasion; a judge always distinguished for the great care with which he guarded State rights; I mean Mr. Justice Johnson. And when I have read it, Sir, then say if it does not confirm every word and syllable which I have uttered on this subject, either now or at the September session. "In the advancement of society," said the judge, "labor, transportation, intelligence, care, and various means of exchange, become commodities, and enter into commerce; *and the subject, the vehicle, the agent, and these various operations, become the objects of commercial regulation.*"

These just sentiments prevailed. The decision of the court quieted the dangerous controversy, and satisfied, and, I will add, gratified, most highly gratified, the whole country.

Sir, may we not perceive at the present moment, without being suspected of looking with eyes sharpened by too much apprehension, — may we not perceive, Sir, in what is now passing around us, the possible beginnings of another controversy

between States, which may be of still greater moment, and followed, unless arrested, by still more deplorable consequences? Do we see no danger, no disturbance, no contests ahead? Sir, do we not behold excited commercial rivalship evidently existing between great States and great cities? Do we not see an emulous competition for trade, external and internal? Do we not see the parties concerned enlarging, and proposing to enlarge, to a vast extent, their plans of currency, evidently in connection with these objects of trade and commerce? Do we not see States themselves becoming deeply interested in great banking institutions? Do we not know that, already, the notes and bills of some States are prohibited by law from circulating in others?

Sir, I will push these questions no farther; but I tell you that it was for exactly such a crisis as this, for this very crisis, for this identical exigency now upon us, that this Constitution was framed and this government established. And let those who expect to get over this crisis without effort and without action, let those whose hope it is that they may be borne along on the tide of circumstances and favorable occurrences, and who repose in the denial of their own powers and their own responsibility, — let all such look well to the end.

For one, I intend to clear myself from all blame. I intend, this day, to free myself of the responsibility of consequences, by warning you of the danger into which you are conducting our public affairs, by urging and entreating you, as I do now urge and entreat you, by adjuring you, as I do adjure you, by your love of country and your fidelity to the Constitution, to abandon all untried expedients, to put no trust in ingenuity and contrivance, to have done with projects which alarm and agitate the people, to seek no shelter from obligation and duty, but, with manliness, directness, and true wisdom, to apply to the evils of the times their proper remedy. That Providence may guide the counsels of the country to this end, before even greater disasters and calamities overtake us, is my most fervent prayer!

Mr. President, on the subject of the power of Congress, as well as on other important topics connected with the bill, the honorable gentleman from South Carolina has advanced opinions of which I feel bound to take some notice. That honorable

gentleman, in his recent speech, attempted to exhibit a contrast between the course of conduct which I, and other gentlemen who act with me, at present pursue, and that which we have heretofore followed. In presenting this contrast, he said, he intended nothing personal; his only object was truth. To this I could not object. The occasion requires, Sir, that I should now examine *his* opinions; and I can truly say, with him, that I mean nothing personally injurious, and that my object, also, is truth, and nothing else. Here I might stop; but I will even say something more.

It is now five-and-twenty years, Sir, since I became acquainted with the honorable gentleman, in the House of Representatives, in which he had held a seat, I think, about a year and a half before I entered it. From that period down to the year 1824, I can say, with great sincerity, there was not, among my political contemporaries, any man for whom I entertained a higher respect or warmer esteem. When we first met, we were both young men. I beheld in him a generous character, a liberal and comprehensive mind engrossed by great objects, distinguished talent, and, particularly, great originality and vigor of thought. That he was ambitious I did not doubt; but that there was any thing in his ambition low or sordid, any thing approaching to a love of the mere loaves and fishes of office, I did not then, and do not now, believe. If, from that moment down to the time I have already mentioned, I differed with him on any great constitutional question, I do not know it.

But in 1824 events well known to the Senate separated us; and that separation remained, wide and broad, until the end of the memorable session which terminated in March, 1833. With the events of that session our occasions of difference had ceased; certainly for the time, and, as I sincerely hoped, for ever. Before the next meeting of Congress, the public deposits had been removed from their lawful custody by the President. Respecting this exercise of the executive power, the honorable gentleman and myself entertained the same opinions; and in regard to subsequent transactions connected with that and growing out of it, there was not, so far as I know, any difference of sentiment between us. We looked upon all these proceedings but as so many efforts to give to the executive an unconstitutional control over the public moneys. We thought we saw, everywhere,

proofs of a design to extend executive authority, not only in derogation of the just powers of Congress, but to the danger of the public liberty. We acted together to check these designs, and to arrest the march of executive prerogative and dominion. In all this, we were but coöperating with many other gentlemen here, and with a large and intelligent portion of the whole country. The unfortunate results of these executive interferences with the currency had made an impression on the public mind. A revolution seemed in progress, and the people were coming in their strength, as we began to think, to support us and our principles.

In this state of things, Sir, we met here at the commencement of the last September session; but we met not as we had done; we met not as we had parted. The events of May, the policy of the President in reference to those events, the doctrines of the message of September, the principles and opinions which the honorable gentleman, both to my surprise and to my infinite regret, came forward then to support, rendered it quite impossible for us to act together for a single moment longer. To the leading doctrines of that message, and to the policy which it recommended, I felt, and still feel, a deep, conscientious, and irreconcilable opposition. The honorable gentleman supported, and still supports, both. Here, then, we part. On these questions of constitutional power and duty, and on these momentous questions of national policy, we separate. And so broad and ample is the space which divides us, and so deep does the division run, touching even the very foundations of the government, that, considering the time of life to which we both have arrived, it is not probable that we are to meet again. I say this with unfeigned and deep regret. Believe me, Sir, I would most gladly act with the honorable gentleman. If he would but come back, now, to what I consider his former principles and sentiments; if he would place himself on those constitutional doctrines which he has sustained through a long series of years; and if, thus standing, he would exert his acknowledged ability to restore the prosperity of the country, and put an end to the mischiefs of reckless experiments and dangerous innovation, I would not only willingly act *with* him, I would act *under* him; I would follow him, I would support him, I would sustain him, at every step, to the utmost of my ability. Such is not to be

our destiny. That destiny is, that we here *part;* and all I can say further is, that he carries with him the same feeling of personal kindness on my part, the same hearty good-will, which have heretofore inspired me.

There have been three principal occasions, Sir, on which the honorable gentleman has expressed his opinions upon the questions now under discussion; namely, in his speech of the 15th of September, his published letter of the 3d of November, and his leading speech at the present session. These productions are all marked with his characteristic ability; they are ingenious, able, condensed, and striking. They deserve an answer. To some of the observations in the speech of September, I made a reply on the day of its delivery; there are other parts of it, however, which require a more deliberate examination.

Mr. President, the honorable gentleman declares in that speech, "that he belongs to the State-rights party; that that party, from the beginning of the government, has been opposed to a national bank, as unconstitutional, inexpedient, and dangerous; that it has ever dreaded the union of the political and moneyed power, and the central action of the government, to which it so strongly tends; that the connection of the government with the banks, whether it be with a combination of State banks, or with a national institution, will necessarily centralize the action of the system at the principal point of collection and disbursement, and at which the mother bank, or the head of the league of State banks, must be located. From that point, the whole system, through the connection with the government, will be enabled to control the exchanges both at home and abroad, and with it the commerce, foreign and domestic, including exports and imports."

Now, Sir, this connection between government and the banks, to which he imputes such mischievous consequences, he describes to be "the receiving and paying away their notes as cash; and the use of the public money from the time of the collection to the disbursement."

Sir, if I clearly comprehend the honorable gentleman, he means no more, after all, than this; that, while the public revenues are collected, as heretofore, through the banks, they will lie in the banks between the time of collection and the time of disbursement; that, during that period, they will be regarded as

one part of the means of business and of discount possessed by the banks; and that, as a greater portion of the revenue is collected in large cities than in small ones, these large cities will, of course, derive greater benefit than the small ones from these deposits in the banks; in other words, that, as the importing merchants in a great city pay more duties to government than those in a small one, so they enjoy a corresponding advantage to be derived from any use which the banks may make of these moneys, while on deposit with them. Now, Sir, I would be very glad to know, supposing all this to be true, what there is in it either unequal or unjust. The benefit is exactly in proportion to the amount of business, and to the sums paid. If individuals in large cities enjoy the incidental use of more money, it is simply because they pay more money. It is like the case of credit on duty bonds. Whoever imports goods with the benefit of giving bond for duties, instead of making present payment, enjoys a certain benefit; and this benefit, in a direct sense, is in proportion to the amount of goods imported, the large importer having credit for a large sum, the small importer having credit for a smaller sum. But the advantage, the benefit, the indulgence, or whatever we may call it, is, nevertheless, entirely equal and impartial.

How, then, does the collection of revenue through the banks "centralize" the action of the commercial system? It seems to me, Sir, the cause is mistaken for the effect. The greatest amount of revenue is collected in the greatest city, because it is already the greatest city; because its local advantages, its population, its capital and enterprise, draw business towards it, constitute it a central point in commercial operations, and have made it the greatest city. It is the centralization of commerce by these just and proper causes, causes which must always exist in every country which produces a large collection of revenue in the favored spot. The amount of capital is one very important cause, no doubt; and leaving public moneys in the banks till wanted allows to merchants, in places of large import, a degree of incidental benefit just in proportion to the amount of capital by them employed in trade, and no more.

I suppose, Sir, it is the natural course of things, in every commercial country, that some place, or a few places, should surpass others in commercial importance. This must ever be so, until

all places possess precisely equal natural advantages. And I suppose, too, that, instead of being mischievous, it is rather for the common good of all, that there should be some commercial emporium, some central point, for the exchanges of trade. Government, certainly, should not seek to produce this result by the bestowal of unequal privileges; but surely, Sir, it would be a very strange and indefensible policy on the part of the government to withhold any portion of the capital of the country from useful employment, merely because, if employed, while all enjoyed the benefit proportionately, all would not enjoy it with the same absolute mathematical equality.

So much, Sir, for concentration, arising from depositing the revenues in banks. Let us now look to the other part of the connection, namely, the receiving of bank-notes for duties. How in the world does this "centralize" the commercial system? The whole tendency and effect, as it seems to me, is directly the other way. It counteracts centralization. It gives all possible advantage to local currency and local payments, and thereby encourages both imports and exports. It makes local money good everywhere. If goods be imported into Charleston, the duties are paid in Charleston notes. New York notes are not demanded. Nothing, certainly, can be fairer or more equal than this, and nothing more favorable to the Charleston importers.

But how would that system work which the gentleman himself proposes? If his plan could prevail, he would have the duties collected either in specie, or in a government paper to be issued from the treasury. He would reject all bank-notes whatever. If the gentleman, Sir, fears centralization, I am astonished that he does not see centralization in all its terrors in this very proposition of his own. Pray allow me to ask, Sir, Where will this government paper, in the course of its issue and circulation, naturally centre? To what points will it tend? Certainly, most certainly, to the greatest points of collection and expenditure; to the very heart of the metropolitan city, wherever that city may be. This is as inevitable as the fall of water or the results of attraction. If two thirds of the duties be collected in New York, it will follow, of course, that two thirds of any government paper received for duties will be there received; and it will be more valuable there than elsewhere. The value of such paper would consist in its receivability, and nothing else.

It would always tend, therefore, directly to the spot where the greatest demand should exist for it for that purpose. Is it not so at this moment with the outstanding treasury-notes? Are they abundant in Georgia, in Mississippi, in Illinois, or in New Hampshire? They are no sooner issued, than they commence their march toward the place where they are most valued and most in demand; that is, to the place of the greatest public receipt. If you want concentration, Sir, and enough of it, if you desire to dry up the small streams of commerce, and fill to overflowing the deep and already swollen main channels, you will act very wisely to that end, if you keep out of the receipt of the treasury all money but such paper as the government may furnish, and which shall be no otherwise redeemable than in receipt for debts to government, while at the same time you depress the character of the local circulation.

Such is the scheme of the honorable member in its probable commercial effect. Let us look at it in a political point of view. The honorable member says he belongs to the State-rights party. That party professes something of an uncommon love of liberty; an extraordinary sensibility to all its dangers; and of those dangers, it most dreads the union of the political and money power. This we learn from the authentic declaration of the gentleman himself. And now, O, transcendent consistency! O, most wonderful conformity of means and ends! O, exquisite mode of gratifying high desires! behold, the honorable member proposes that the political power of the state shall assume to itself the function of supplying the entire paper circulation of the country, by notes or bills of its own, issued at its own discretion, to be paid out or advanced to whomsoever it pleases, in discharging the obligations of government, bearing no promise to pay, and to be kept in circulation merely by being made receivable at the treasury! The whole circulation of the country, excepting only that which is metallic, and which must always be small, will thus be made up of mere government paper, issued for government purposes, and redeemable only in payment of government debts. In other words, the entire means of carrying on the whole commerce of the country will be held by government in its own hands, and made commensurate, exactly, with its own wants, purposes, and opinions; the whole commercial business of the country being thus made a mere appendage to revenue.

But, Sir, in order that I may not misrepresent the honorable member, let me show you a little more distinctly what his opinions are respecting this government paper. The honorable member says, that, to make this sub-treasury measure successful, and to secure it against reaction, some safe and stable medium of circulation, "to take the place of bank-notes in the fiscal operations of government, ought to be issued"; that, "in the present condition of the world, a paper currency in some form, if not necessary, is almost indispensable, in financial and commercial operations of civilized and extensive communities"; that "the great desideratum is to ascertain what description of paper has the requisite qualities of being free from fluctuation in value and liability to abuse, in the greatest perfection"; that "bank-notes do not possess these requisites in a degree sufficiently high for this purpose." And then he says, "I go farther. It appears to me, after bestowing the best reflection I can give the subject, that no convertible paper, that is, no paper whose credit rests upon a *promise to pay*, is suitable for currency." "On what, then," he asks, "ought a paper currency to rest?" "I would say," he answers, "on demand and supply simply; which regulate the value of every thing else, the constant demand which government has for its necessary supplies." He then proceeds to observe, "that there might be a sound and safe paper currency, founded on the credit of government exclusively"; "that such paper, only to be issued to those who had claims on the government, would, in its habitual state, be at or above par with gold and silver"; that "nothing but experience can determine what amount, and of what denominations, might be safely issued; but that it might be safely assumed that the country would absorb an amount greatly exceeding its annual income. Much of its exchanges, which amount to a vast sum, as well as its banking business, would revolve about it; and many millions would thus be kept in circulation beyond the demands of government."

By this scheme, Sir, government, in its disbursements, is not to pay money, but to issue paper. This paper is no otherwise payable or redeemable, than as it may be received at the treasury. It is expected to be let out much faster than it comes in, so that many millions will be kept in circulation; and its habitual character will be at or above par with gold and silver! Now,

Sir, if there is to be found anywhere a more plain and obvious project of paper money, in all its deformity, I should not know where to look for it.

In the first place, Sir, I have suggested the complete union which it would form, if it were in itself practicable, between the political and the money power. The whole commerce of the country, indeed, under such a state of things, would be little more than a sort of incident to treasury operations; rather a collateral emanation of the revenue system than a substantial and important branch of the public interest. I have referred, also, to its probable consequences upon that which the gentleman regards as so great an evil, and which he denominates "the centralization of commercial action."

And now I pray you to consider, Mr. President, in the next place, what an admirable contrivance this would be to secure that economy in the expenses of government which the gentleman has so much at heart. Released from all necessity of taxation, and from the consequent responsibility to the people; not called upon to regard at all the amount of annual income; having an authority to cause treasury-notes to issue whenever it pleases,

> "In multitudes, like which the populous North
> Poured never from her frozen loins, to pass
> Rhene, or the Danaw";

what admirable restraint would be imposed on government! how doubly sure would assurance be made for it, that all its expenditures would be strictly limited to the absolute and indispensable wants and demands of the public service!

But, Sir, fortunately, very fortunately, a scheme so wild, and which would be so mischievous, is totally impracticable. It rests on an assumption for which there is not the least foundation, either in reason or experience. It takes for granted that which the history of every commercial state refutes, and our own especially, in almost every page. It supposes that irredeemable government paper can circulate in the business of society, and be kept at par. This is an impossibility. The honorable gentleman rejects convertible bank-notes, which are equivalent to specie, since they will always command it, and adopts in their stead government paper, with no promise to pay, but a promise only to receive it for debts and taxes; and he cherishes the

imagination, as I have said, so often and so long refuted, that this paper will be kept in circulation in the country, and will be able to perform the great business of currency and exchange, even though it exist in quantities exceeding, by many millions, the demands of government.

If it be necessary, Sir, at this day, to refute ideas like these, it must be because the history of all countries, our own included, is a dead letter to us. Even at the very moment in which I am speaking, the small amount of treasury-notes which has been issued by government, hardly a fifth part of the ordinary annual revenue, though these notes bear an interest of five per cent., though they are redeemable in cash at the treasury at the expiration of the year, and though, in the mean time, they are everywhere received for government dues, are not only of less value than specie, but of less value, also, than the notes of non-specie-paying banks; those banks whose paper is daily denounced here as "rags, filthy rags." In my opinion, Sir, the whole scheme is as visionary and impracticable as any which the genius of project ever conceived.

Mr. President, toward the close of this speech of September, I find a paragraph in which several other subjects are brought together, and which I must ask permission to read. Having commended the wise and noble bearing of the little State-rights party, of which he says it is his pride to have been a member throughout the eventful period through which the country has passed since 1824, he adds: —

"In that year, as I have stated, the tariff system triumphed in the councils of the nation. We saw its disastrous political bearings; foresaw its surpluses, and the extravagances to which it would lead; we rallied on the election of the late President to arrest it through the influence of the executive department of the government. In this we failed. We then fell back upon the rights and sovereignty of the States; and, by the action of a small but gallant State, and through the potency of its interposition, we brought the system to the ground, sustained, as it was, by the opposition and the administration, and by the whole power and patronage of the government."

Every part of this most extraordinary statement well deserves attention. In the first place, Sir, here is an open and direct avowal that the main object for rallying on General Jackson's first election was to accomplish the overthrow of the protective

policy of the country. Indeed! Well, this is very frank. I am glad to hear the avowal made. It puts an end to all suspicions. It was, then, to overthrow protection, was it, that the honorable gentleman took so much pains to secure General Jackson's first election? I commend his candor in now acknowledging it. But, Sir, the honorable member had allies and associates in that rally; they thronged round him from all quarters, and zealously followed his lead. And pray, Sir, was his object, as now avowed by himself, the joint object of all the party? Did he tell Pennsylvania, honest, intelligent, straight-forward Pennsylvania, that such was his purpose? And did Pennsylvania concur in it? Pennsylvania was first and foremost in espousing the cause of General Jackson. Every body knows she is more of a tariff State than any other in the Union. Did he tell her that his purpose was to break the tariff entirely down? Did he state his objects, also, to New York? Did he state them to New Jersey? What say you, gentlemen from Pennsylvania, gentlemen from New York, and gentlemen from New Jersey? Ye who supported General Jackson's election, what say you? Was it your purpose, also, by that election, to break down the protective policy? Or, if it were not your purpose, did you know, nevertheless, — pray let us understand that, — did you know, nevertheless, that it *was* the purpose, and the main purpose, of the honorable member from Carolina? and did you still coöperate with him?

The present chief magistrate of the country was a member of this body in 1828. He and the honorable member from Carolina were, at that time, exerting their united forces to the utmost, in order to bring about General Jackson's election. Did they work thus zealously together for the same ultimate end and purpose? or did they mean merely to change the government, and then each to look out for himself? Mr. Van Buren voted for the tariff bill of that year, commonly called the "bill of abominations"; but, very luckily, and in extremely good season, *instructions* for that vote happened to come from Albany! The vote, therefore, could be given, and the member giving it could not possibly thereby give any offence to any gentleman of the State-rights party, who acknowledge the duty of obeying instructions.

Sir, I will not do gentlemen injustice. Those who belonged

to tariff States, as they are called, and who supported General Jackson for the Presidency, did not intend thereby to overthrow the protective policy. They only meant to make General Jackson President, and to come into power along with him. As to ultimate objects, each had his own. All could agree, however, in the first step. It was difficult, certainly, to give a plausible appearance to a political union among gentlemen who differed so widely on the great and leading question of the times, the question of the protective policy. But this difficulty was overcome by the oracular declaration that General Jackson was in favor of a "JUDICIOUS TARIFF." Here, Sir, was ample room and verge enough. Who could object to a *judicious tariff?* Tariff men and Anti-tariff men, State-rights men and Consolidationists, those who had been called prodigals, and those who had been called radicals, all thronged and flocked together here, and, with all their difference in regard to ultimate objects, agreed to make common cause till they should get into power.

The ghosts, Sir, which are fabled to cross the Styx, whatever different hopes or purposes they may have beyond it, still unite in the present wish to get over, and therefore all hurry and huddle into the leaky and shattered craft of Charon, the ferryman. And this motley throng of politicians, Sir, with as much difference of final object, and as little care for each other, made a boat of "Judicious Tariff," and all rushed and scrambled into it, until they filled it, near to sinking. The authority of the master was able, however, to keep them peaceable and in order for the time, for they had the virtue of submission, and, though with occasional dangers of upsetting, he succeeded in pushing them all over with his long setting-pole.

"Ipse ratem conto subigit."

Well, Sir, the honorable gentleman tells us that he expected, when General Jackson should be elected, to arrest the tariff system through the influence of the executive department. Here is another candid confession. Arrest the tariff by executive influence! Indeed! Why, Sir, this seems like hoping, from the first, for the use of the veto. How, but by the veto, could the executive arrest the tariff acts? And is it true, Sir, that, at that early day, the honorable member was looking to the veto, not with dread, but with hope? Did he expect it, and did he rely

upon it? Did he make the rally of which he speaks, in order that he might choose a President who would exercise it? And did he afterwards complain of it, or does he complain of it now, only because it was ill-directed, because it turned out to be a thunderbolt which did not fall in the right place?

In this reliance on executive influence, — Sir, I declare I hardly trust myself that I read or quote correctly, when I find in what I read, or from what I quote, the honorable member from South Carolina, by his own confession, hoping or expecting to accomplish any thing by executive influence; yet so was it spoken, and so is it printed, — in this reliance, or this hope, or expectation, founded on executive influence, the honorable gentleman and his friends failed; and failing in this, he says, they fell back on the sovereignty of the States, and brought the system to the ground "through the potency of interposition"; by which he means neither more nor less than nullification. So then, Sir, according to this, that excessive fear of power which was so much cherished by the nullifiers was only awakened to a flame in their bosoms, when they found that they could not accomplish their own ends by the executive power of the President. I am no authorized commentator, Sir, on the doctrines or theories of nullification. *Non nostrum.* But if this exposition be authentic, I must say it is not calculated to diminish my opposition to the sentiments of that school.

But the gentleman goes on to tell us that nullification, or interposition, succeeded. By means of it, he says, he did bring the protective system to the ground. And so, in his published letter of the 3d of November, he states that "State interposition has overthrown the protective tariff, and with it the American system."

We are to understand, then, Sir, first, that the Compromise Act of 1833 was forced upon Congress by State interposition, or nullification. Next, that its object and design, so far as the honorable gentleman was concerned in it, was to break down and destroy, for ever, the whole protective policy of the country. And lastly, that it has accomplished that purpose, and that the last vestige of that policy is wearing away.

Now, Sir, I must say, that, in 1833, I entertained no doubt at all that the design of the gentleman was exactly what he now states. On this point I have not been deceived. It was not,

certainly, the design of all who acted with him; but that it was his purpose I knew then, as clearly as I know now, after his open avowal of it; and this belief governed my conduct at the time, together with that of a great majority of those in both houses of Congress, who, after the act of 1824, felt bound to carry out the provisions of that act, and to maintain them reasonably and fairly. I opposed the Compromise Act with all my power. It appeared to me every way objectionable; it looked like an attempt to make a new constitution; to introduce another fundamental law, above the power of Congress, and which should control the authority and discretion of Congress, in all time to come. This, of itself, was a conclusive objection with me; I said so then, have often said so since, and say so now. I said then, that I, for one, should not be bound by that law more than by any other law, except that, as it was a law passed on a very important and agitating subject, I should not be disposed to interfere with it until a case of clear necessity should arise. On this principle I have acted since. When that case of necessity shall arise, however, should I be in public life, I shall concur in any alteration of that act which such necessity may require. That such an occasion may come, I more than fear. I entertain something stronger than a doubt upon the possibility of maintaining the manufactures and industry of this country upon such a system as the Compromise Act will leave us, when it shall have gone through its processes of reduction. All this, however, I leave to the future.

Having had occasion, Mr. President, to speak of nullification and the nullifiers, I beg leave to say that I have not done so for any purpose of reproach. Certainly, Sir, I see no possible connection, myself, between their principles or opinions, and the support of this measure. They, however, must speak for themselves. They may have intrusted the bearing of their standard, for aught I know, to the hands of the honorable member from South Carolina; and I perceived last session what I perceive now, that in his opinion there is a connection between these projects of government and the doctrines of nullification. I can only say, Sir, that it will be marvellous to me, if that banner, though it be said to be tattered and torn, shall yet be lowered in obeisance, and laid at the footstool of executive power. To the sustaining of that power, the passage of this

bill is of the utmost importance. The administration will regard its success as being to them, what Cromwell said the battle of Worcester was to him, "a crowning mercy." Whether gentlemen, who have distinguished themselves so much by their extreme jealousy of this government, shall now find it consistent with their principles to give their aid in effecting this consummation, remains to be seen.

The next exposition of the honorable gentleman's sentiments and opinions is in his letter of the 3d of November.

This letter, Sir, is a curiosity. As a paper describing political operations, and exhibiting political opinions, it is without a parallel. Its phrase is altogether military. It reads like a despatch, or a bulletin from head-quarters. It is full of attacks, assaults, and repulses. It recounts movements and countermovements; speaks of occupying one position, falling back upon another, and advancing to a third; it has positions to cover enemies, and positions to hold allies in check. Meantime, the celerity of all these operations reminds one of the rapidity of the military actions of the king of Prussia, in the Seven Years' war. Yesterday, he was in the South, giving battle to the Austrian; to-day he is in Saxony, or Silesia. Instantly he is found to have traversed the Electorate, and is facing the Russian and the Swede on his northern frontier. If you look for his place on the map, before you find it he has quitted it. He is always marching, flying, falling back, wheeling, attacking, defending, surprising; fighting everywhere, and fighting all the time. In one particular, however, the campaigns described in this letter are conducted in a different manner from those of the great Frederick. I think we nowhere read, in the narrative of Frederick's achievements, of his taking a position to cover an enemy, or a position to hold an ally in check. These refinements in the science of tactics and of war are of more recent discovery.

Mr. President, public men must certainly be allowed to change their opinions, and their associations, whenever they see fit. No one doubts this. Men may have grown wiser; they may have attained to better and more correct views of great public subjects. It would be unfortunate, if there were any code which should oblige men, in public or private life, to adhere to opinions once entertained, in spite of experience and better knowl-

edge, and against their own convictions of their erroneous character. Nevertheless, Sir, it must be acknowledged, that what appears to be a sudden, as well as a great change, naturally produces a shock. I confess that, for one, I was shocked when the honorable gentleman, at the last session, espoused this bill of the administration. And when I first read this letter of November, and, in the short space of a column and a half, ran through such a succession of political movements, all terminating in placing the honorable member in the ranks of our opponents, and entitling him to take his seat, as he has done, among them, if not at their head, I confess I felt still greater surprise. All this seemed a good deal too abrupt. Sudden movements of the affections, whether personal or political, are a little out of nature.

Several years ago, Sir, some of the wits of England wrote a mock play, intended to ridicule the unnatural and false feeling, the *sentimentality*, of a certain German school of literature. In this play, two strangers are brought together at an inn. While they are warming themselves at the fire, and before their acquaintance is yet five minutes old, one springs up and exclaims to the other, "A sudden thought strikes me! Let us swear an eternal friendship!" This affectionate offer was instantly accepted, and the friendship duly sworn, unchangeable and eternal! Now, Sir, how long this eternal friendship lasted, or in what manner it ended, those who wish to know may learn by referring to the play.

But it seems to me, Sir, that the honorable member has carried his political sentimentality a good deal higher than the flight of the German school; for he appears to have fallen suddenly in love, not with strangers, but with opponents. Here we all had been, Sir, contending against the progress of executive power, and more particularly, and most strenuously, against the projects and experiments of the administration upon the currency. The honorable member stood among us, not only as an associate, but as a leader. We thought we were making some headway. The people appeared to be coming to our support and our assistance. The country had been roused, every successive election weakening the strength of the adversary, and increasing our own. We were in this career of success carried strongly forward by the current of public opinion, and

only needed to hear the cheering voice of the honorable member,

"Once more unto the breach, dear friends, once more!"

and we should have prostrated for ever this anti-constitutional, anti-commercial, anti-republican, and anti-American policy of the administration. But instead of these encouraging and animating accents, behold! in the very crisis of our affairs, on the very eve of victory, the honorable member cries out to the enemy, not to us, his allies, but to the enemy: "Hollo! A sudden thought strikes me! I abandon my allies! Now I think of it, they have always been my oppressors! I abandon them, and now let *you and me* swear an eternal friendship!" Such a proposition, from such a quarter, Sir, was not likely to be long withstood. The other party was a little coy, but, upon the whole, nothing loath. After proper hesitation, and a little decorous blushing, it owned the soft impeachment, admitted an equally sudden sympathetic impulse on its own side; and, since few words are wanted where hearts are already known, the honorable gentleman takes his place among his new friends amidst greetings and caresses, and is already enjoying the sweets of an eternal friendship.

In this letter, Mr. President, the writer says, in substance, that he saw, at the commencement of the last session, that affairs had reached the point when he and his friends, according to the course they should take, would reap the full harvest of their long and arduous struggle against the encroachments and abuses of the general government, or lose the fruits of all their labors. At that time, he says, State interposition (viz. Nullification) had overthrown the protective tariff and the American system, and put a stop to Congressional usurpation; that he had previously been united with the National Republicans; but that, in joining such allies, he was not insensible to the embarrassment of his position; that with them victory itself was dangerous, and that therefore he had been waiting for events; that now (that is to say, in September last) the joint attacks of the allies had brought down executive power; that the administration had become divested of power and influence, and that it was now clear that the combined attacks of the allied forces would utterly overthrow and demolish it. All this he saw. But he saw, too, as he says, that in that case the victory would inure, not to him

or his cause, but to his allies and their cause. I do not mean to say that he spoke of personal victories, or alluded to personal objects, at all. He spoke of his cause.

He proceeds to say, then, that never was there before, and never, probably, will there be again, so fair an opportunity for himself and his friends to carry out *their own principles and policy*, and to reap the fruits of their long and arduous struggle. These principles and this policy, Sir, be it remembered, he represents, all along, as identified with the principles and policy of nullification. And he makes use of this glorious opportunity by refusing to join his late allies in any further attack on those in power, and rallying anew the old State-rights party to hold in check their old opponents, the National Republican party. This, he says, would enable him to prevent the complete ascendency of his allies, and to compel the Southern division of the administration party to occupy the ground of which he proposes to take possession, to wit, the ground of the old State-rights party. They will have, he says, no other alternative.

Mr. President, stripped of its military language, what is the amount of all this, but that, finding the administration weak, and likely to be overthrown, if the opposition continued with undiminished force, he went over to it, he joined it; intending to act, himself, upon nullification principles, and to compel the Southern members of the administration to meet him on those principles? — in other words, to make a nullification administration, and to take such part in it as should belong to him and his friends. He confesses, Sir, that in thus abandoning his allies, and taking a position to cover those in power, he perceived a shock would be created which would require some degree of resolution and firmness. In this he was right. A shock, Sir, has been created; yet there he is.

This administration, Sir, is represented as succeeding to the last, by an inheritance of principle. It professes to tread in the footsteps of its illustrious predecessor. It adopts, generally, the sentiments, principles, and opinions of General Jackson, *proclamation and all;* and yet, though he be the very prince of nullifiers, and but lately regarded as the chiefest of sinners, it receives the honorable gentleman with the utmost complacency. To all appearance, the delight is mutual; they find him an able leader, he finds them complying followers. But, Sir, in all this

movement he understands himself. He means to go ahead, and to take them along. He is in the engine-car; he controls the locomotive. His hand regulates the steam, to increase or retard the speed at his discretion. And as to the occupants of the passenger-cars, Sir, they are as happy a set of gentlemen as one might desire to see of a summer's day. They feel that they are in progress; they hope they shall not be run off the track; and when they reach the end of their journey, they desire to be thankful!

The arduous struggle is now all over. Its richest fruits are all reaped; nullification embraces the sub-treasuries, and oppression and usurpation will be heard of no more.

On the broad surface of the country, Sir, there is a spot called "the Hermitage." In that residence is an occupant very well known, and not a little remarkable both in person and character. Suppose, Sir, the occupant of the Hermitage were now to open that door, enter the Senate, walk forward, and look over the chamber to the seats on the other side. Be not frightened, gentlemen; it is but fancy's sketch. Suppose he should thus come in among us, Sir, and see into whose hands has fallen the chief support of that administration, which was, in so great a degree, appointed by himself, and which he fondly relied on to maintain the principles of his own. If gentlemen were now to see his steady military step, his erect posture, his compressed lips, his firmly-knitted brow, and his eye full of fire, I cannot help thinking, Sir, they would all feel somewhat queer. There would be, I imagine, not a little awkward moving and shifting in their seats. They would expect soon to hear the roar of the lion, even if they did not feel his paw.

I proceed, Sir, to the speech of the honorable member, delivered on the 15th of February last, in which he announces propositions respecting the constitutional power of Congress, which, if they can be maintained, must necessarily give a new direction to our legislation, and would go far towards showing the necessity of the present bill. The honorable member, Sir, insists that Congress has no right to make general deposits of the public revenue in banks; and he denies, too, that it can authorize the reception of any thing but gold and silver in the payment of debts and dues to the government. These questions, Sir, are questions of magnitude, certainly, and, since they have

been raised, ought to be answered. They may be considered together. Allow me, in the first place, however, to clear them from some extraneous matter. The honorable member puts the first question thus: Have we the right to make deposits in the banks in order to manifest confidence in them, with a view to enable them to resume specie payments? And, by way of illustration, asks the further question, whether government could constitutionally bestow on individuals, or a private association, the same advantages, in order to enable *them* to pay their debts. But this I take not to be the question.

The true inquiry is, May not Congress authorize the public revenue, in the intervening time between its receipt and its expenditure, to be deposited in banks, for the general purpose of safe-keeping, in the same way as individuals deposit their own money? And if this mode of safe-keeping be attended with incidental advantages, of considerable importance to the community, is not that a reason which may properly govern the discretion of Congress in the case? To benefit the banks, or to benefit the community, is, in this case, not the main object; it is only the incident. As to the case put for illustration, it would not be expected of Congress, certainly, to make deposits with individuals with a view, principally, of enabling such individuals to pay their debts; it might, nevertheless, be very competent to Congress, in some cases, and a very proper exercise of its power, to deposit money, even with individuals, in such manner as that it might be advantageous to the depositary. This incidental or consequential advantage results, often, from the nature of the transaction, and is inseparable from it. It may always be enjoyed, more or less, by any one who holds public money for disbursement. In order to the necessary exercise of any of its powers, government doubtless may make contracts with banks or other corporations, as well as with individuals. If it has occasion to buy bills of exchange, it may buy them of banks. If it has stock or treasury-notes to sell, it may sell to banks, as the Secretary of the Treasury has lately proposed. It may employ banks, therefore, at its discretion, for the keeping of the public moneys, as those moneys must be kept somewhere. It can no more need a specific grant of power in the Constitution for such a purpose, than one merchant, becoming agent for another to receive and pay out money, would need a particular clause in his authority enabling him to use

banks for these purposes as other persons use them. No question has ever been raised in this government about the power of Congress to authorize such deposits. Mr. Madison, in opposing the first bank charter in 1791, argued strenuously, that a Bank of the United States was not necessary to government as a depositary of the public moneys, because its use could be supplied by other banks. This sufficiently shows his opinion. And in 1800 Congress made it the duty of the collectors of customs to deposit bonds for duties in the bank and its branches for collection.

When the charter of the first bank expired, in 1811, almost every gentleman who opposed its renewal contended that it was not necessary for the purpose of holding deposits of revenue, because State banks could answer all such purposes equally well. A strong and prevailing tone of argument runs through all the speeches on that occasion, tending to this conclusion; namely, that government may derive from State banks all the benefit which a Bank of the United States could render. In 1816, when the charter of the last bank was granted, it contained, as originally presented, no provision for making the public deposits in the bank. The bill was probably drawn, in this particular, from the model of the first charter, in which no such clause was contained, without adverting to the law of 1800; but a section was introduced, on my motion, making it the duty of collectors to deposit the public moneys in the bank and its branches. It was this section of the law which some of us thought was violated by the removal of the deposits. The main object of the deposit bill of 1836, as we know, was to regulate deposits of the public money with the State banks; so that, from the commencement of the government to the present time, nobody has thought of making any question of the constitutional power of Congress to make such arrangements.

The gentleman's other proposition, and which he lays down with still more confidence and emphasis, is, that Congress cannot, constitutionally, authorize the receipt of bank-notes, though they be notes of specie-paying banks, in payment of debts to government; because, he says, that would make them money; and if we make them money, then we are bound to control and regulate that money. Most certainly, Sir, I agree with the honorable member, that, when bank-notes become money, we are bound to control and

regulate them. I thank him for this admission; since it goes a great way to support that proposition for which I have been contending. That bank-notes have become money in fact, that they answer the uses of money, that, in many respects, the law treats them as money, is certain. Why, then, are we not already bound to control and regulate them? The gentleman will say, Because we have not, ourselves, made them money. But is that any answer? If they have become money in fact, they require the same regulation, and we have the same authority to regulate them, as if they had acquired that character by any acts of our own; because our power is general. It is to take care of the money of the country, and to regulate all the great concerns of commerce.

But let us see how this opinion of the honorable member stands upon the authorities in our own history.

When the first bank was established, the right of Congress to create such a corporation was, as we all know, very much disputed. Large majorities, however, in both houses, were of opinion that the right existed, and they therefore granted the charter; and in this charter there was an express provision that the bills of the bank should be receivable in all payments to government. Those who opposed the bank did not object to this clause; on the contrary, they went further; and Mr. Madison insisted that Congress might grant or refuse to State banks the privilege of having their notes received by the government. In 1791, therefore, men of all parties supposed that Congress, in its discretion, might authorize the receipt of bank-notes. The same principle was incorporated into the bank charter of 1816: indeed, it was in the bill which the gentleman himself reported; and it passed without objection from any quarter. But this is not all. Let us look into the proceedings of the session of 1815–16 a little more closely. At the commencement of that session, Mr. Madison drew our attention to the state of the currency; by which he meant the paper currency of the country, which was then very much disordered, as the banks had suspended specie payment during the war, and had not resumed. Early in the progress of the session, the honorable member from South Carolina moved that this part of the message should be referred to a select committee. It was so ordered. The committee was raised, and the gentleman himself

placed at its head. As chairman of the committee, he introduced the bank bill, explained it, defended it, and carried it triumphantly through the House, having in it the provision which I have before mentioned.

But there is something more. At the same session the gentleman introduced the bill for the further collection of the revenue, to which I have already referred, and in which bill he carried the receivability of bank-notes much further, and provided that notes of any bank or bankers which were payable and paid, on demand, in specie, might be allowed and accepted in all payments to the United States. So that the honorable gentleman himself drew, with his own pen, the very first legal enactment in the history of this government, by which it was provided that the notes of State banks should be considered and treated as money at the treasury. Still further, Sir. The bill containing this provision did not pass the House; and as I deemed some provision necessary, indispensably necessary, for the state of things then existing, I introduced, I think the very next day after the failure of the honorable gentleman's bill, three resolutions. The first two were merely declaratory, asserting that all duties, taxes, and imposts ought to be uniform, and that the revenues of the United States ought to be collected in the legal currency, or in treasury-notes, or the notes of the Bank of the United States, as by law provided. These two resolutions I agreed to waive, as it was thought they were not essential, and that they might imply some degree of censure upon past transactions. The third resolution was in these words: —

"*And resolved, further*, That the Secretary of the Treasury be, and he hereby is, required and directed to adopt such measures as he may deem necessary to cause, as soon as may be, all duties, taxes, debts, or sums of money accruing or becoming payable to the United States, to be collected and paid in the legal currency of the United States, or treasury-notes, or notes of the Bank of the United States, as aforesaid; and that from and after the 1st day of February next, no such duties, taxes, debts, or sums of money accruing or becoming payable to the United States, as aforesaid, ought to be collected or received otherwise than in the legal currency of the United States, or treasury-notes, or notes of the Bank of the United States, as aforesaid."

The Senate will perceive that, in this resolution of mine, there was no provision whatever for receiving bank-notes, except of

the Bank of the United States, according to its charter. Well, what happened thereon? Why, Sir, if you look into the columns of the National Intelligencer, you will find it stated, that Mr. Calhoun moved to amend Mr. Webster's resolution by "extending its provisions to the notes of all banks which should, at the time specified therein, pay their notes in specie on demand."

This amendment was opposed by me, as being unnecessary, inasmuch as all such bills would be received of course, as they always had been received. The honorable member said, that, for his own part, he did not himself think it necessary; he thought such bills would continue to be received, as they had been, without any new provision; he had offered the amendment, however, to satisfy the doubts of others; but since it was opposed, he would withdraw it; and he did withdraw it. The resolution passed the House, therefore, exactly as I had prepared it. But in the Senate it was amended in the manner proposed by the honorable member in the House; and in this amendment the House ultimately concurred. The provision was thus incorporated into the resolution, became part of the law of the land, and so remains at this very moment. Sir, may I not now say to the honorable member, if the Constitution of the country has been violated by treating bank-notes as money, "Thou art the man!"

How is it possible, Sir, the gentleman could so far forget his own agency in these most important transactions, as to stand up here, the other day, and, with an air not only of confidence, but of defiance, say, "But I take a still higher ground; I strike at the root of the mischief. I deny the right of this government to treat bank-notes as money in its fiscal transactions. On this great question I never have before committed myself, though not generally disposed to abstain from forming or expressing opinions."

I will only add, Sir, that this reception and payment of bank-notes was expressly recognized by the act of the 14th of April, 1836; by the deposit act of June of that year; and by the bill which passed both houses in 1837, but which the President neither approved nor returned. In all these acts, so far as I know, the honorable member from South Carolina himself concurred.

So much for authority.

But now, Sir, what is the principle of construction upon which the gentleman relies to sustain his doctrine? "The genius of our Constitution," he says, "is opposed to the assumption of power." This is undoubtedly true; no one can deny it. But he adds, "Whatever power it gives is expressly granted." This, however, by no means follows from the first proposition, and cannot be maintained. It is doubtless true that no power is to be assumed; but then powers may be inferred, or necessarily implied. It is not a question of assumption; it is a question of fair, just, and reasonable inference. To hold that no power is granted and no means authorized but such as are granted or authorized by express words, would be to maintain a doctrine that would put an end to the government. It could not last through a single session of Congress. If such opinions had prevailed in the beginning, it could never have been put in motion, and would not have drawn its first breath. My friend near me from Delaware has gone so fully and so ably into this part of the subject, as to make it quite unnecessary for me to pursue it. Where the Constitution confers on Congress a general power, or imposes a general duty, all other powers necessary for the exercise of that general power and for fulfilling that duty are implied, so far as there is no prohibition. We act every day upon this principle, and could not carry on the government without its aid. Under the constitutional authority to coin money, we build expensive mints, fill them with officers, punish such officers for embezzlement, buy bullion, and exercise various other acts of power. The Constitution says that the judicial power of the United States shall be vested in certain courts. Under this general authority, we not only establish such courts, but protect their records by penalties against forgery, and the purity of their administration by punishing perjuries. The department of the post-office is another and signal instance of the extent and necessity of implied powers. The whole authority of Congress over this subject is expressed in very few words; they are merely, "to establish post-offices and post-roads." Under this short and general grant, laws of Congress have been extended to a great variety of very important enactments without the specific grant of any power whatever, as any one may see who will look over the post-office laws. In these laws, among other provisions, penalties are enacted

against a great number of offences; thus deducing the highest exercise of criminal jurisdiction, by reasonable and necessary inference, from the general authority. But I forbear from traversing a field already so fully explored.

There are one or two other remarks, Sir, in the gentleman's speech, which I must not entirely omit to notice. In speaking of the beneficial effects of this measure, one, he says, would be, that "the weight of the banks would be taken from the side of the *tax-consumers*, where it has been from the commencement of the government, and placed on the side of the *tax-payers*. This great division of the community necessarily grows out of the fiscal action of the government."

Sir, I utterly deny that there is the least foundation in fact for this distinction. It is an odious distinction, calculated to inspire envy and hatred; and being, as I think, wholly groundless, its suggestion, and the endeavor to maintain it, ought to be resisted and repelled. We are all tax-payers, in the United States, who use articles on which imposts are laid; and who is there that is excused from this tax, or does not pay his proper part of it, according to his consumption? Certainly no one. On the other hand, who are the tax-consumers? Clearly, the army, the navy, the laborers on public works, and other persons in government employment. But even these are not idle consumers; they are agents of the government and of the people. Pensioners may be considered as persons who enjoy benefit from the public taxes of the country, without rendering present service in return; but the legal provision for them stands on the ground of previous merits, which none deny. If we had a vast national debt, the annual interest of which was a charge upon the country, the holders of this debt might be considered as tax-consumers. But we have no such debt. If the distinction, therefore, which the gentleman states, exists anywhere, most certainly it does not exist here. And I cannot but exceedingly regret that sentiments and opinions should be expressed here having so little foundation, and yet so well calculated to spread prejudice and dislike, far and wide, against the government and the institutions of the country.

But, Sir, I have extended these remarks already to a length for which I find no justification but in my profound conviction of the importance of this crisis in our national affairs. We are,

as it seems to me, about to rush madly from our proper spheres. We are to relinquish the performance of our own incumbent duties; to abandon the exercise of essential powers, confided by the Constitution to our hands, for the good of the country. This was my opinion in September; it is my opinion now. What we propose to do, and what we omit to do, are, in my judgment, likely to make a fearful, perhaps a fatal, inroad upon the unity of commerce between these States, as well as to embarrass and obstruct the employments of the people, and to prolong existing evils.

Sir, whatever we may think of it now, the Constitution had its immediate origin in the conviction of the necessity for this uniformity, or identity, in commercial regulations. The whole history of the country, of every year and every month, from the close of the war of the Revolution to 1789, proves this. Over whatever other interests it was made to extend, and whatever other blessings it now confers, or hereafter may confer, on the millions of free citizens who do or shall live under its protection; even though, in time to come, it should raise a pyramid of power and grandeur, whose apex should look down on the loftiest political structures of other nations and other ages, it will yet be true, that it was itself the child of pressing commercial necessity Unity and identity of commerce among all the States was its seminal principle. It had been found absolutely impossible to excite or foster enterprise in trade, under the influence of discordant and jarring State regulations. The country was losing all the advantages of its position. The Revolution itself was beginning to be regarded as a doubtful blessing. The ocean before us was a barren waste. No American canvas whitened its bosom, no keel of ours ploughed its waters. The journals of the Congress of the Confederation show the most constant, unceasing, unwearied, but always unsuccessful, appeals to the States and the people, to renovate the system, to infuse into that Confederation at once a spirit of union and a spirit of activity, by conferring on Congress the power over trade. By nothing but the perception of its indispensable necessity, by nothing but their consciousness of suffering from its want, were the States and the people brought, and brought by slow degrees, to invest this power in a permanent and competent government.

Sir, hearken to the fervent language of the old Congress, in July, 1785, in a letter addressed to the States, prepared by Mr. Monroe, Mr. King, and other great names, now transferred from the lists of living men to the records which carry down the fame of the distinguished dead. The proposition before them, the great object to which they so solicitously endeavored to draw the attention of the States, was this; namely, that "the United States, in Congress assembled, should have the sole and exclusive right of regulating the trade of the States, as well with foreign nations as with each other." This, they say, is urged upon the States by every consideration of local as well as of federal policy; and they beseech them to agree to it, if they wish to promote the strength of the Union, and to connect it by the strongest ties of interest and affection. This was in July, 1785.

In the same spirit, and for the same end, was that most important resolution which was adopted in the House of Delegates of Virginia, on the 21st day of the following January. Sir, I read the resolution entire.

"*Resolved*, That Edmund Randolph, and others, be appointed commissioners, who, or any five of whom, shall meet such commissioners as may be appointed by the other States in the Union, at a time and place to be agreed on, to take into consideration the trade of the United States; to examine the relative situations and trade of the said States; to consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony, and to report to the several States such an act relative to this great object, as, when unanimously ratified by them, will enable the United States, in Congress assembled, effectually to provide for the same; that the said commissioners shall immediately transmit to the several States copies of the preceding resolution, with a circular letter requesting their concurrence therein, and proposing a time and place for the meeting aforesaid."

Here, Sir, let us pause. Let us linger by the waters of this original fountain. Let us contemplate this, the first step in that series of proceedings, so full of great events to us and to the world. Notwithstanding the embarrassment and distress of the country, the recommendation of the old Congress had not been complied with. Every attempt to bring the State legislatures into any harmony of action, or any pursuit of a common object,

had signally and disastrously failed. The exigency of the case called for a new movement, for a more direct and powerful attempt to bring the good sense and patriotism of the country into action upon the crisis. A solemn assembly was therefore proposed, a general convention of delegates from all the States. And now, Sir, what was the exigency? What was this crisis? Look at the resolution itself; there is not an idea in it but trade. Commerce! commerce! is the beginning and end of it. The subject to be considered and examined was "the relative situation of the trade of the States"; and the object to be obtained was "the establishment of a uniform system in their commercial regulations, as necessary to the common interest and their permanent harmony." This is all. And, Sir, by the adoption of this ever-memorable resolution, the House of Delegates of Virginia, on the 21st day of January, 1786, performed the first act in the train of measures which resulted in that Constitution under the authority of which you now sit in that chair, and I have now the honor of addressing the members of this body.

Mr. President, I am a Northern man. I am attached to one of the States of the North by the ties of birth and parentage, by the tillage of paternal fields, by education, by the associations of early life, and by sincere gratitude for proofs of public confidence early bestowed. I am bound to another Northern State by adoption, by long residence, by all the cords of social and domestic life, and by an attachment and regard, springing from her manifestation of approbation and favor, which grapple me to her with hooks of steel. And yet, Sir, with the same sincerity of respect, the same deep gratitude, the same reverence and hearty good-will, with which I would pay a similar tribute to either of these States, do I here acknowledge the Commonwealth of Virginia to be entitled to the honor of commencing the work of establishing this Constitution. The honor is hers; let her enjoy it; let her for ever wear it proudly; there is not a brighter jewel in the coronet that adorns her brow. Let this resolution stand, illustrating her records, and blazoning her name through all time!

The meeting, Sir, proposed by the resolution was held. It took place, as all know, in Annapolis, in May of the same year; but it was thinly attended, and its members, very wisely, adopted measures to bring about a fuller and more general conven-

tion. Their letter to the States on this occasion is full of instruction. It shows their sense of the unfortunate condition of the country. In their meditations on the subject, they saw the extent to which the commercial power must necessarily extend. The sagacity of New Jersey had led her, in agreeing to the original proposition of Virginia, to enlarge the object of the appointment of commissioners, so as to embrace not only commercial regulations, *but other important matters.* This suggestion the commissioners adopted, because they thought, as they inform us, "that the power of regulating trade is of such comprehensive extent, and will enter so far into the general system of the federal government, that to give it efficacy, and to obviate questions and doubts concerning its precise nature and limits, might require a correspondent adjustment of other parts of the federal system." Here you see, Sir, that other powers, such as are now in the Constitution, were expected to branch out of the necessary commercial power; and therefore the letter of the commissioners concludes with recommending a general convention, "to take into consideration the *whole situation of the United States,* and to devise such further provisions as should appear necessary to render the constitution of the federal government adequate to the exigencies of the Union."

The result of that convention was the present Constitution. And yet, in the midst of all this flood of light respecting its original objects and purposes, and while we cannot but see the adequate powers which it confers for accomplishing these purposes, we abandon the commerce of the country, we betray its interests, we turn ourselves away from its most crying necessities. Sir, it will be a fact stamped in deep and dark lines upon our annals, it will be a truth which in all time can never be denied or evaded, that if this Constitution shall not, now and hereafter, be so administered as to maintain a uniform system in all matters of trade; if it shall not protect and regulate the commerce of the country, in all its great interests, in its foreign intercourse, in its domestic intercourse, in its navigation, in its currency, in every thing which fairly belongs to the whole idea of commerce, either as an end, an agent, or an instrument, then that Constitution will have failed, utterly failed, to accomplish the precise, distinct, original object in which it had its being.

In matters of trade we were no longer to be Georgians, Vir-

ginians, Pennsylvanians, or Massachusetts men. We were to have but one commerce, and that the commerce of the United States. There were not to be separate flags, waving over separate commercial systems. There was to be one flag, the E PLURIBUS UNUM; and toward that was to be that rally of united interests and affections which our fathers had so earnestly invoked.

Mr. President, this unity of commercial regulation is, in my opinion, indispensable to the safety of the union of the States. In peace it is its strongest tie. I care not on what side, or in which of its branches, this constitutional authority may be attacked. Every successful attack upon it, made anywhere, weakens the whole, and renders the next assault easier and more dangerous. Any denial of its just extent is an attack upon it. We attack it, most fiercely attack it, whenever we say we will not exercise the powers which it enjoins. If the court had yielded to the pretensions of respectable States upon the subject of steam navigation, and to the retaliatory proceedings of other States; if retreat and excuse, and disavowal of power, on the part of the United States, had been prevailing sentiments then, in what condition at this moment, let me ask, would the steam navigation of the country have been found? To us, Sir, to us, his countrymen, — to us, who feel so much admiration for his genius, and so much gratitude for his services, Fulton would have lived almost in vain. State grants and State exclusions would have covered over all our waters.

Sir, it is in the nature of such things, that the first violation of true principles, or the first departure from them, draws more important violations or departures after it; and the first surrender of just authority will be followed by others more to be deplored. If commerce be a unit, to break it in any one part is to decree its ultimate dismemberment in all. If there be made a first chasm, though it be small, through that the whole wild ocean will pour in, and we may then labor to throw up embankments in vain.

Sir, the spirit of union is particularly liable to temptation and seduction in moments of peace and prosperity. In war, this spirit is strengthened by a sense of common danger, and by a thousand recollections of ancient efforts and ancient glory in a common cause. But in the calms of a long peace, and in the absence of all apparent causes of alarm, things near gain an

ascendency over things remote. Local interests and feelings overshadow national sentiments. Our attention, our regard, and our attachment are every moment solicited to what touches us closest, and we feel less and less the attraction of a distant orb. Such tendencies we are bound by true patriotism and by our love of union to resist. This is our duty; and the moment, in my judgment, has arrived, when that duty should be performed. We hear, every day, sentiments and arguments which would become a meeting of envoys, employed by separate governments, more than they become the common legislature of a united country. Constant appeals are made to local interests, to geographical distinctions, and to the policy and the pride of particular States. It would sometimes appear as if it were a settled purpose to convince the people that our Union is nothing but a jumble of different and discordant interests, which must, ere long, be all resolved into their original state of separate existence; as if, therefore, it was of no great value while it should last, and was not likely to last long. The process of disintegration begins by urging as a fact the existence of different interests.

Sir, is not the end to which all this leads us obvious? Who does not see that, if convictions of this kind take possession of the public mind, our Union can hereafter be nothing, while it remains, but a connection without harmony; a bond without affection; a theatre for the angry contests of local feelings, local objects, and local jealousies? Even while it continues to exist in name, it may by these means become nothing but the mere form of a united government. My children, and the children of those who sit around me, may meet, perhaps, in this chamber, in the next generation; but if tendencies now but too obvious be not checked, they will meet as strangers and aliens. They will feel no sense of common interest or common country; they will cherish no common object of patriotic love. If the same Saxon language shall fall from their lips, it may be the chief proof that they belong to the same nation. Its vital principle exhausted and gone, its power of doing good terminated, the Union itself, become productive only of strife and contention, must ultimately fall, dishonored and unlamented.

The honorable member from Carolina himself habitually indulges in charges of usurpation and oppression against the gov-

ernment of his country. He daily denounces its important measures, in the language in which our Revolutionary fathers spoke of the oppressions of the mother country. Not merely against executive usurpation, either real or supposed, does he utter these sentiments, but against laws of Congress, laws passed by large majorities, laws sanctioned for a course of years by the people. These laws he proclaims, every hour, to be but a series of acts of oppression. He speaks of them as if it were an admitted fact, that such is their true character. This is the language he utters, these are the sentiments he expresses, to the rising generation around him. Are they sentiments and language which are likely to inspire our children with the love of union, to enlarge their patriotism, or to teach them, and to make them feel, that their destiny has made them common citizens of one great and glorious republic? A principal object in his late political movements, the gentleman himself tells us, was to *unite the entire South;* and against whom, or against what, does he wish to unite the entire South? Is not this the very essence of local feeling and local regard? Is it not the acknowledgment of a wish and object to create political strength by uniting political opinions geographically? While the gentleman thus wishes to unite the entire South, I pray to know, Sir, if he expects me to turn toward the polar star, and, acting on the same principle, to utter a cry of Rally! to the whole North? Heaven forbid! To the day of my death, neither he nor others shall hear such a cry from me.

Finally, the honorable member declares that he shall now march off, under the banner of State rights! March off from whom? March off from what? We have been contending for great principles. We have been struggling to maintain the liberty and to restore the prosperity of the country; we have made these struggles here, in the national councils, with the old flag, the true American flag, the Eagle, and the Stars and Stripes, waving over the chamber in which we sit. He now tells us, however, that he marches off under the State-rights banner!

Let him go. I remain. I am where I ever have been, and ever mean to be. Here, standing on the platform of the general Constitution, a platform broad enough and firm enough to uphold every interest of the whole country, I shall still be found. Intrusted with some part in the administration of that Consti-

tution, I intend to act in its spirit, and in the spirit of those who framed it. Yes, Sir, I would act as if our fathers, who formed it for us and who bequeathed it to us, were looking on me; as if I could see their venerable forms bending down to behold us from the abodes above. I would act, too, as if the eye of posterity was gazing on me.

Standing thus, as in the full gaze of our ancestors and our posterity, having received this inheritance from the former, to be transmitted to the latter, and feeling that, if I am born for any good, in my day and generation, it is for the good of the whole country, no local policy or local feeling, no temporary impulse, shall induce me to yield my foothold on the Constitution of the Union. I move off under no banner not known to the whole American people, and to their Constitution and laws. No, Sir; these walls, these columns,

"shall fly
From their firm base as soon as I."

I came into public life, Sir, in the service of the United States. On that broad altar, my earliest, and all my public vows, have been made. I propose to serve no other master. So far as depends on any agency of mine, they shall continue united States; united in interest and in affection; united in every thing in regard to which the Constitution has decreed their union; united in war, for the common defence, the common renown, and the common glory; and united, compacted, knit firmly together in peace, for the common prosperity and happiness of ourselves and our children.

REPLY TO MR. CALHOUN.*

On Thursday, the 22d of March, Mr. Calhoun spoke at length in answer to Mr. Webster's speech of the 12th of March.

When he had concluded, Mr. Webster immediately rose, and addressed the Senate as follows: —

Mr. President, — I came rather late to the Senate this morning, and, happening to meet a friend on the Avenue, I was admonished to hasten my steps, as "the war was to be carried into Africa," and I was expected to be annihilated. I lost no time in following the advice, Sir, since it would be awkward for one to be annihilated without knowing any thing about it.

Well, Sir, the war has been carried into Africa. The honorable member has made an expedition into regions as remote from the subject of this debate as the orb of Jupiter from that of our earth. He has spoken of the tariff, of slavery, and of the late war. Of all this I do not complain. On the contrary, if it be his pleasure to allude to all or any of these topics, for any purpose whatever, I am ready at all times to hear him.

Sir, this carrying the war into Africa, which has become so common a phrase among us, is, indeed, imitating a great example; but it is an example which is not always followed with success. In the first place, every man, though he be a man of talent and genius, is not a Scipio; and in the next place, as I recollect this part of Roman and Carthaginian history, — the gentleman may be more accurate, but as I recollect it, when Scipio resolved upon carrying the war into Africa, Hannibal was not at home. Now, Sir, I am very little like Hannibal, but I

* A Speech delivered in the Senate of the United States, on the 22d of March, 1838, in Answer to Mr. Calhoun.

am at home; and when Scipio Africanus South-Caroliniensis brings the war into my territories, I shall not leave their defence to Asdrubal, nor Syphax, nor any body else. I meet him on the shore, at his landing, and propose but one contest.

"Concurritur; horæ
Momento cita mors venit, aut victoria læta."

Mr. President, I had made up my mind that, if the honorable gentleman should confine himself to a reply in the ordinary way, I would not say another syllable. But he has not done so. He has gone off into topics quite remote from all connection with revenue, commerce, finance, or sub-treasuries, and invites to a discussion which, however uninteresting to the public at the present moment, is too personal to be declined by me.

He says, Sir, that I undertook to compare my political character and conduct with his. Far from it. I attempted no such thing. I compared the gentleman's political opinions at different times with one another, and expressed decided opposition to those which he now holds. And I did, certainly, advert to the general tone and drift of the gentleman's sentiments and expressions for some years past, in their bearing on the Union, with such remarks as I thought they deserved; but I instituted no comparison between him and myself. He may institute one if he pleases, and when he pleases. Seeking nothing of this kind, I avoid nothing. Let it be remembered, that the gentleman began the debate, by attempting to exhibit a contrast between the present opinions and conduct of my friends and myself, and our recent opinions and conduct. Here is the first charge of inconsistency; let the public judge whether he has made it good. He says, Sir, that on several questions I have taken different sides, at different times; let him show it. If he shows any change of opinion, I shall be called on to give a reason, and to account for it. I leave it to the country to say whether, as yet, he has shown any such thing.

But, Sir, before attempting that, he has something else to say. He had prepared, it seems, to draw comparisons himself. He had intended to say something, if time had allowed, upon our respective opinions and conduct in regard to the war. If time had allowed! Sir, time does allow, time must allow. A general remark of that kind ought not to be, cannot be, left to

produce its effect, when that effect is obviously intended to be unfavorable. Why did the gentleman allude to my votes or my opinions respecting the war at all, unless he had something to say? Does he wish to leave an undefined impression that something was done, or something said, by me, not now capable of defence or justification? something not reconcilable with true patriotism? He means that, or nothing. And now, Sir, let him bring the matter forth; let him take the responsibility of the accusation; let him state his facts. I am here to answer; I am here, this day, to answer. Now is the time, and now the hour. I think we read, Sir, that one of the good spirits would not bring against the Arch-enemy of mankind a railing accusation; and what is railing but general reproach, an imputation without fact, time, or circumstance? Sir, I call for particulars. The gentleman knows my whole conduct well; indeed, the journals show it all, from the moment I came into Congress till the peace. If I have done, then, Sir, any thing unpatriotic, any thing which, as far as love to country goes, will not bear comparison with his or any man's conduct, let it now be stated. Give me the fact, the time, the manner. He speaks of the war; that which we call the late war, though it is now twenty-five years since it terminated. He would leave an impression that I opposed it. How? I was not in Congress when war was declared, nor in public life anywhere. I was pursuing my profession, keeping company with judges and jurors, and plaintiffs and defendants. If I had been in Congress, and had enjoyed the benefit of hearing the honorable gentleman's speeches, for aught I can say, I might have concurred with him. But I was not in public life. I never had been, for a single hour; and was in no situation, therefore, to oppose or to support the declaration of war. I am speaking to the fact, Sir; and if the gentleman has any fact, let us know it.

Well, Sir, I came into Congress during the war. I found it waged, and raging. And what did I do here to oppose it? Look to the journals. Let the honorable gentleman tax his memory. Bring up any thing, if there be any thing to bring up, not showing error of opinion, but showing want of loyalty or fidelity to the country. I did not agree to all that was proposed, nor did the honorable member. I did not approve of every measure, nor did he. The war had been preceded by the re-

strictive system and the embargo. As a private individual, I certainly did not think well of these measures. It appeared to me that the embargo annoyed ourselves as much as our enemies, while it destroyed the business, and cramped the spirits, of the people. In this opinion I may have been right or wrong, but the gentleman was himself of the same opinion. He told us the other day, as a proof of his independence of party on great questions, that he differed with his friends on the subject of the embargo. He was decidedly and unalterably opposed to it. It furnishes in his judgment, therefore, no imputation either on my patriotism, or on the soundness of my political opinions, that I was opposed to it also. I mean opposed in opinion; for I was not in Congress, and had nothing to do with the act creating the embargo. And as to opposition to measures for carrying on the war, after I came into Congress, I again say, let the gentleman specify; let him lay his finger on any thing calling for an answer, and he shall have an answer.

Mr. President, you were yourself in the House during a considerable part of this time. The honorable gentleman may make a witness of you. He may make a witness of any body else. He may be his own witness. Give us but some fact, some charge, something capable in itself either of being proved or disproved. Prove any thing, state any thing, not consistent with honorable and patriotic conduct, and I am ready to answer it. Sir, I am glad this subject has been alluded to in a manner which justifies me in taking public notice of it; because I am well aware that, for ten years past, infinite pains has been taken to find something, in the range of these topics, which might create prejudice against me in the country. The journals have all been pored over, and the reports ransacked, and scraps of paragraphs and half-sentences have been collected, fraudulently put together, and then made to flare out as if there had been some discovery. But all this failed. The next resort was to supposed correspondence. My letters were sought for, to learn if, in the confidence of private friendship, I had ever said any thing which an enemy could make use of. With this view, the vicinity of my former residence has been searched, as with a lighted candle. New Hampshire has been explored, from the mouth of the Merrimack to the White Hills. In one instance a gentleman had left the State, gone five hundred miles

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off, and died. His papers were examined; a letter was found, and I have understood it was brought to Washington; a conclave was held to consider it, and the result was, that, if there was nothing else against Mr. Webster, the matter had better be let alone. Sir, I hope to make every body of that opinion who brings against me a charge of want of patriotism. Errors of opinion can be found, doubtless, on many subjects; but as conduct flows from the feelings which animate the heart, I know that no act of my life has had its origin in the want of ardent love of country.

Sir, when I came to Congress, I found the honorable gentleman a leading member of the House of Representatives. Well, Sir, in what did we differ? One of the first measures of magnitude, after I came here, was Mr. Dallas's* proposition for a bank. It was a war measure. It was urged as being absolutely necessary to enable government to carry on the war. Government wanted revenue; such a bank, it was hoped, would furnish it; and on that account it was most warmly pressed and urged on Congress. You remember all this, Mr. President. You remember how much some persons supposed the success of the war and the salvation of the country depended on carrying that measure. Yet the honorable member from South Carolina opposed this bill. He now takes to himself a good deal of merit, none too much, but still a good deal of merit, for having defeated it. Well, Sir, I agreed with him. It was a mere paper bank; a machine for fabricating irredeemable paper. It was a new form for paper money; and instead of benefiting the country, I thought it would plunge it deeper and deeper in difficulty. I made a speech on the subject; it has often been quoted. There it is; let whoever pleases read and examine it. I am not proud of it for any ability it exhibits; on the other hand, I am not ashamed of it for the spirit which it manifests. But, Sir, I say again that the gentleman himself took the lead against this measure, this darling measure of the administration. I followed him; if I was seduced into error, or into unjustifiable opposition, there sits my seducer.

What, Sir, were other leading sentiments or leading measures of that day? On what other subjects did men differ? The

* The Secretary of the Treasury.

gentleman has adverted to one, and that a most important one; I mean the navy. He says, and says truly, that at the commencement of the war the navy was unpopular. It was unpopular with his friends, who then controlled the politics of the country. But he says he differed with his friends; in this respect he resisted party influence and party connection, and was the friend and advocate of the navy. Sir, I commend him for it. He showed his wisdom. That gallant little navy soon fought itself into favor, and showed that no man who had placed reliance on it had been disappointed.

Well, Sir, in all this I was exactly of the opinion of the honorable gentleman.

Sir, I do not know when my opinion of the importance of a naval force to the United States had its origin. I can give no date to my present sentiments on this subject, because I never entertained different sentiments. I remember, Sir, that immediately after coming into my profession, at a period when the navy was most unpopular, when it was called by all sorts of hard names and designated by many coarse epithets, on one of those occasions on which young men address their neighbors, I ventured to put forth a boy's hand in defence of the navy. I insisted on its importance, its adaptation to our circumstances and to our national character, and its indispensable necessity, if we intended to maintain and extend our commerce. These opinions and sentiments I brought into Congress; and the first time in which I presumed to speak on the topics of the day, I attempted to urge on the House a greater attention to the naval service. There were divers modes of prosecuting the war. On these modes, or on the degree of attention and expense which should be bestowed on each, different men held different opinions. I confess I looked with most hope to the results of naval warfare, and therefore I invoked government to invigorate and strengthen that arm of the national defence. I invoked it to seek its enemy upon the seas, to go where every auspicious indication pointed, and where the whole heart and soul of the country would go with it.

Sir, we were at war with the greatest maritime power on earth. England had gained an ascendency on the seas over all the combined powers of Europe. She had been at war twenty years. She had tried her fortunes on the Continent, but

generally with no success. At one time the whole Continent had been closed against her. A long line of armed exterior, an unbroken hostile array, frowned upon her from the Gulf of Archangel, round the promontory of Spain and Portugal, to the extreme point of Italy. There was not a port which an English ship could enter. Everywhere on the land the genius of her great enemy had triumphed. He had defeated armies, crushed coalitions, and overturned thrones; but, like the fabled giant, he was unconquerable only while he touched the land. On the ocean he was powerless. That field of fame was his adversary's, and her meteor flag was streaming in triumph over its whole extent.

To her maritime ascendency England owed every thing, and we were now at war with her. One of the most charming of her poets had said of her,

> "Her march is on the mountain wave,
> Her home is on the deep."

Now, Sir, since we were at war with her, I was for intercepting this march; I was for calling upon her, and paying our respects to her, at home; I was for giving her to know that we, too, had a right of way over the seas, and that our marine officers and our sailors were not entire strangers on the bosom of the deep. I was for doing something more with our navy than keeping it on our own shores, for the protection of our coasts and harbors; I was for giving play to its gallant and burning spirit; for allowing it to go forth upon the seas, and to encounter, on an open and an equal field, whatever the proudest or the bravest of the enemy could bring against it. I knew the character of its officers and the spirit of its seamen; and I knew that, in their hands, though the flag of the country might go down to the bottom, yet, while defended by them, that it could never be dishonored or disgraced.

Since she was our enemy, and a most powerful enemy, I was for touching her, if we could, in the very apple of her eye; for reaching the highest feather in her cap; for clutching at the very brightest jewel in her crown. There seemed to me to be a peculiar propriety in all this, as the war was undertaken for the redress of maritime injuries alone. It was a war declared for free trade and sailors' rights. The ocean, therefore, was the

proper theatre for deciding this controversy with our enemy, and on that theatre it was my ardent wish that our own power should be concentrated to the utmost.

So much, Sir, for the war, and for my conduct and opinions as connected with it. And, as I do not mean to recur to this subject often, nor ever, unless indispensably necessary, I repeat the demand for any charge, any accusation, any allegation whatever, that throws me behind the honorable gentleman, or behind any other man, in honor, in fidelity, in devoted love to that country in which I was born, which has honored me, and which I serve. I, who seldom deal in defiance, now, here, in my place, boldly defy the honorable member to put his insinuation in the form of a charge, and to support that charge by any proof whatever.

The gentleman has adverted to the subject of slavery. On this subject, he says, I have not proved myself a friend to the South. Why, Sir, the only proof is, that I did not vote for his resolutions.

Sir, this is a very grave matter; it is a subject very exciting and inflammable. I take, of course, all the responsibility belonging to my opinions; but I desire these opinions to be understood, and fairly stated. If I am to be regarded as an enemy to the South, because I could not support the gentleman's resolutions, be it so. I cannot purchase favor, from any quarter, by the sacrifice of clear and conscientious convictions. The principal resolution declared that Congress had plighted its faith not to interfere either with slavery or the slave trade in the District of Columbia.

Now, Sir, this is quite a new idea. I never heard it advanced until this session. I have heard gentlemen contend that no such power was in the Constitution; but the notion, that, though the Constitution contained the power, yet Congress had plighted its faith not to exercise such a power, is an entire novelty, so far as I know. I must say, Sir, it appeared to me little else than an attempt to put a prohibition into the Constitution, because there was none there already. For this supposed plighting of the public faith, or the faith of Congress, I saw no ground, either in the history of the government, or in any one fact, or in any argument. I therefore could not vote for the proposition.

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Sir, it is now several years since I took care to make my opinion known, that this government has, constitutionally, nothing to do with slavery, as it exists in the States. That opinion is entirely unchanged. I stand steadily by the resolution of the House of Representatives, adopted, after much consideration, at the commencement of the government, which was, that Congress has no authority to interfere in the emancipation of slaves, or in the treatment of them, within any of the States; it remaining with the several States alone to provide any regulations therein, which humanity and true policy may require. This, in my opinion, is the Constitution and the law. I feel bound by it. I have quoted the resolution often. It expresses the judgment of men of all parts of the country, deliberately and coolly formed; and it expresses my judgment, and I shall adhere to it. But this has nothing to do with the other constitutional question; that is to say, the mere constitutional question whether Congress has the power to regulate slavery and the slave trade in the District of Columbia.

On such a question, Sir, when I am asked what the Constitution is, or whether any power granted by it has been compromised away, or, indeed, could be compromised away, I must express my honest opinion, and always shall express it, if I say any thing, notwithstanding it may not meet concurrence either in the South, or the North, or the East, or the West. I cannot express by my vote what I do not believe. The gentleman has chosen to bring that subject into this debate, with which it has no concern; but he may make the most of it, if he thinks he can produce unfavorable impressions against me at the South from my negative to his fifth resolution. As to the rest of them, they were commonplaces, generally, or abstractions; in regard to which, one may well feel himself not called on to vote at all.

And now, Sir, in regard to the tariff. That is a long chapter, but I am quite ready to go over it with the honorable member.

He charges me with inconsistency. That may depend on deciding what inconsistency is, in respect to such subjects, and how it is to be proved. I will state the facts, for I have them in my mind somewhat more fully than the honorable member has himself presented them. Let us begin at the beginning. In 1816 I voted against the tariff law which then passed. In 1824 I again voted against the tariff law which was then pro-

posed, and which passed. A majority of New England votes, in 1824, were against the tariff system. The bill received but one vote from Massachusetts; but it passed. The policy was established. New England acquiesced in it; conformed her business and pursuits to it; embarked her capital, and employed her labor, in manufactures; and I certainly admit that, from that time, I have felt bound to support interests thus called into being, and into importance, by the settled policy of the government. I have stated this often here, and often elsewhere. The ground is defensible, and I maintain it.

As to the resolutions adopted in Boston in 1820, and which resolutions he has caused to be read, and which he says he presumes I prepared, I have no recollection of having drawn the resolutions, and do not believe I did. But I was at the meeting, and addressed the meeting, and what I said on that occasion was produced here, and read in the Senate, years ago.

The resolutions, Sir, were opposed to the commencing of a high tariff policy. I was opposed to it, and spoke against it; the city of Boston was opposed to it; the Commonwealth of Massachusetts was opposed to it. Remember, Sir, that this was in 1820. This opposition continued till 1824. The votes all show this. But in 1824 the question was decided; the government entered upon the policy; it invited men to embark their property and their means of living in it. Individuals thus encouraged have done this to a great extent; and therefore I say, so long as the manufactures shall need reasonable and just protection from government, I shall be disposed to give it to them. What is there, Sir, in all this, for the gentleman to complain of? Would he have us always oppose the policy adopted by the country on a great question? Would he have minorities never submit to the will of majorities?

I remember to have said, Sir, at the meeting in Faneuil Hall, that protection appeared to be regarded as incidental to revenue, and that the incident could not be carried fairly above the principal; in other words, that duties ought not to be laid for the mere object of protection. I believe that proposition to be substantially correct. I believe that if the power of protection be inferred only from the revenue power, the protection could only be incidental.

But I have said in this place before, and I repeat it now, that

Mr. Madison's publication after that period, and his declaration that the Convention did intend to grant the power of protection under the commercial clause, placed the subject in a new and a clear light. I will add, Sir, that a paper drawn up apparently with the sanction of Dr. Franklin, and read to a circle of friends at his house, on the eve of the assembling of the Convention, respecting the powers which the proposed new government ought to possess, shows plainly that, in regulating commerce, it was expected that Congress would adopt a course which should protect the manufactures of the North. He certainly went into the Convention himself under that conviction.

Well, Sir, and now what does the gentleman make out against me in relation to the tariff? What laurels does he gather in this part of Africa? I opposed the *policy* of the tariff, until it had become the settled and established policy of the country. I have never questioned the constitutional power of Congress to grant protection, except so far as the remark made in Faneuil Hall goes, which remark respects only the length to which protection might properly be carried, so far as the power is derived from the authority to lay duties on imports. But the policy being established, and a great part of the country having placed vast interests at stake in it, I have not disturbed it; on the contrary, I have insisted that it ought not to be disturbed. If there be inconsistency in all this, the gentleman is at liberty to blazon it forth; let him see what he can make of it.

Here, Sir, I cease to speak of myself; and respectfully ask pardon of the Senate for having so long detained it upon any thing so unimportant as what relates merely to my own public conduct and opinions.

Sir, the honorable member is pleased to suppose that our spleen is excited, because he has interfered to snatch from us a victory over the administration. If he means by this any personal disappointment, I shall not think it worth while to make a remark upon it. If he means a disappointment at his quitting us while we were endeavoring to arrest the present policy of the administration, why then I admit, Sir, that I, for one, felt that disappointment deeply. It is the policy of the administration, its principles, and its measures, which I oppose. It is not persons, but things; not men, but measures. I do wish most fervently to put an end to this anti-commercial policy; and if the

overthrow of the policy shall be followed by the political defeat of its authors, why, Sir, it is a result which I shall endeavor to meet with equanimity.

Sir, as to the honorable member's wresting the victory from us, or as to his ability to sustain the administration in this policy, there may be some doubt about that. I trust the citadel will yet be stormed, and carried, by the force of public opinion, and that no Hector will be able to defend its walls.

But now, Sir, I must advert to a declaration of the honorable member, which, I confess, did surprise me. The honorable member says, that, personally, he and myself have been on friendly terms, but that we always differed on great constitutional questions. Sir, this is astounding. And yet I was partly prepared for it; for I sat here the other day, and held my breath, while the honorable gentleman declared, and repeated, that he had always belonged to the State-rights party. And he means, by what he has declared to-day, that he has always given to the Constitution a construction more limited, better guarded, less favorable to the extension of the powers of this government, than that which I have given to it. He has always interpreted it according to the strict doctrines of the school of State rights! Sir, if the honorable member ever belonged, until very lately, to the State-rights party, the connection was very much like a secret marriage. And never was secret better kept. Not only were the espousals not acknowledged, but all suspicion was avoided. There was no known familiarity, or even kindness, between them. On the contrary, they acted like parties who were not at all fond of each other's company.

Sir, is there a man in my hearing, among all the gentlemen now surrounding us, many of whom, of both houses, have been here many years, and know the gentleman and myself perfectly, — is there one who ever heard, supposed, or dreamed that the honorable member belonged to the State-rights party before the year 1825? Can any such connection be proved upon him, can he prove it upon himself, before that time?

Sir, I will show you, before I resume my seat, that it was not until after the gentleman took his seat in the chair which you now occupy, that any public manifestation, or intimation, was ever given by him of his having embraced the peculiar doctrines of the State-rights party. The truth is, Sir, the honorable gen-

tleman had acted a very important and useful part during the war. But the war terminated. Toward the end of the session of 1814–15, we received the news of peace. This closed the Thirteenth Congress. In the fall of 1815, the Fourteenth Congress assembled. It was full of ability, and the honorable gentleman stood high among its distinguished members. He remained in the House, Sir, through the whole of that Congress; and now, Sir, it is easy to show that, during those two years, the honorable gentleman took a decided lead in all those great measures which he has since so often denounced as unconstitutional and oppressive, the bank, the tariff, and internal improvements. The war being terminated, the gentleman's mind turned itself toward internal administration and improvement. He surveyed the whole country, contemplated its resources, saw what it was capable of becoming, and held a political faith not so narrow and contracted as to restrain him from useful and efficient action. He was, therefore, at once a full length ahead of all others in measures which were national, and which required a broad and liberal construction of the Constitution. This is historic truth. Of his agency in the bank, and other measures connected with the currency, I have already spoken, and I do not understand him to deny any thing I have said, in that particular. Indeed, I have said nothing capable of denial.

Now allow me a few words upon the tariff. The tariff of 1816 was distinctly a South Carolina measure. Look at the votes, and you will see it. It was a tariff for the benefit of South Carolina interests, and carried through Congress by South Carolina votes and South Carolina influence. Even the *minimum*, Sir, the so-much-reproached, the abominable *minimum*, that subject of angry indignation and wrathful rhetoric, is of Southern origin, and has a South Carolina parentage.

Sir, the contest on that occasion was chiefly between the cotton-growers at home, and the importers of cotton fabrics from India. These India fabrics were made from the cotton of that country. The people of this country were using cotton fabrics not made of American cotton, and, so far, they were diminishing the demand for such cotton. The importation of India cottons was then very large, and this bill was designed to put an end to it, and, with the help of the *minimum*, it did put

an end to it. The cotton manufactures of the North were then in their infancy. They had some friends in Congress, but if I recollect, the majority of Massachusetts members and of New England members were against this cotton tariff of 1816. I remember well, that the main debate was between the importers of India cottons, in the North, and the cotton-growers of the South. The gentleman cannot deny the truth of this, or any part of it. Boston opposed this tariff, and Salem opposed it, warmly and vigorously. But the honorable member supported it, and the law passed. And now be it always remembered, Sir, that that act passed on the professed ground of protection; that it had in it the *minimum* principle, and that the honorable member, and other leading gentlemen from his own State, supported it, voted for it, and carried it through Congress.

And now, Sir, we come to the doctrine of internal improvement, that other usurpation, that other oppression, which has come so near to justifying violent disruption of the government, and scattering the fragments of the Union to the four winds. Have the gentleman's State-rights opinions always kept him aloof from such unhallowed infringements of the Constitution? He says he always differed with me on constitutional questions. How was it in this most important particular? Has he here stood on the ramparts, brandishing his glittering sword against assailants, and holding out a banner of defiance? Sir, it is an indisputable truth, that he is himself the man, the *ipse* that first brought forward in Congress a scheme of general internal improvement, at the expense and under the authority of this government. He, Sir, is the very man, the *ipsissimus ipse*, who considerately, and on a settled system, began these unconstitutional measures, if they be unconstitutional. And now for the proof.

The act incorporating the Bank of the United States was passed in April, 1816. For the privileges of the charter, the proprietors of the bank were to pay to government a *bonus*, as it was called, of one million five hundred thousand dollars, in certain instalments. Government also took seven millions in the stock of the bank. Early in the next session of Congress, that is, in December, 1816, the honorable member moved, in the House of Representatives, that a committee be appointed to consider the propriety of setting apart this *bonus*, and also the

dividends on the stock belonging to the United States, as a permanent fund for internal improvement. The committee was appointed, and the honorable member was made its chairman. He thus originated the plan, and took the lead in its execution. Shortly afterwards, he reported a bill carrying out the objects for which the committee had been appointed. This bill provided that the dividends on the seven millions of bank stock belonging to government, and also the whole of the *bonus*, should be permanently pledged as a fund for constructing roads and canals; and that this fund should be subject to such specific appropriations as Congress might subsequently make.

This was the bill; and this was the first project ever brought forward in Congress for a system of internal improvements. The bill goes the whole doctrine at a single jump. The Cumberland Road, it is true, was already in progress; and for that the gentleman had also voted. But there were, and are now, peculiarities about that particular expenditure which sometimes satisfy scrupulous consciences; but this bill of the gentleman's, without equivocation or saving clause, without if, or and, or but, occupied the whole ground at once, and announced internal improvement as one of the objects of this government, on a grand and systematic plan. The bill, Sir, seemed indeed too strong. It was thought by persons not esteemed extremely jealous of State rights to evince too little regard to the will of the States. Several gentlemen opposed the measure in that shape, on that account; and among them Colonel Pickering, then one of the Representatives from Massachusetts. Even Timothy Pickering could not quite sanction, or concur in, the honorable gentleman's doctrines to their full extent, although he favored the measure in its general character. He therefore prepared an amendment, as a substitute; and his substitute provided for two very important things not embraced in the original bill: —

First, that the proportion of the fund to be expended in each State, respectively, should be in proportion to the number of its inhabitants.

Second, that the money should be applied in constructing such roads, canals, and so forth, in the several States, as Congress might direct, *with the assent of the State.*

This, Sir, was Timothy Pickering's amendment to the gentleman's bill. And now, Sir, how did the honorable gentleman,

who has always belonged to the State-rights party,— how did he treat this amendment, or this substitute? Which way do you think his State-rights doctrine led him? Why, Sir, I will tell you. He immediately rose, and moved to strike out the words "*with the assent of the State*"! Here is the journal under my hand, Sir; and here is the gentleman's motion. And certainly, Sir, it will be admitted that this motion was not of a nature to intimate that he was wedded to State rights. But the words were not struck out. The motion did not prevail. Mr. Pickering's substitute was adopted, and the bill passed the House in that form.

In committee of the whole on this bill, Sir, the honorable member made a very able speech both on the policy of internal improvements and the power of Congress over the subject. These points were fully argued by him. He spoke of the importance of the system, the vast good it would produce, and its favorable effect on the union of the States. "Let us, then," said he, "bind the republic together with a perfect system of roads and canals. Let us conquer space. It is thus the most distant parts of the republic will be brought within a few days' travel of the centre; it is thus that a citizen of the West will read the news of Boston still moist from the press."

But on the power of Congress to make internal improvements, ay, Sir, on the power of Congress, hear him! What were then his rules of construction and interpretation? How did he at that time read and understand the Constitution? Why, Sir, he said that "he was no advocate for refined arguments on the Constitution. The instrument was not intended as a thesis for the logician to exercise his ingenuity on. It ought to be construed with plain good-sense." This is all very just, I think, Sir; and he said much more in the same strain. He quoted many instances of laws passed, as he contended, on similar principles, and then added, that "he introduced these instances to prove the uniform sense of Congress and of the country (for they had not been objected to) as to our powers; and surely," said he, "they furnish better evidence of the true interpretation of the Constitution than the most refined and subtile arguments."

Here you see, Mr. President, how little *original* I am. You have heard me again and again contending in my place here

for the stability of that which has been long settled; you have heard me, till I dare say you have been tired, insisting that the sense of Congress, so often expressed, and the sense of the country, so fully shown and so firmly established, ought to be regarded as having decided finally certain constitutional questions. You see now, Sir, what authority I have for this mode of argument. But while the scholar is learning, the teacher renounces. Will he apply his old doctrine now — I sincerely wish he would — to the question of the bank, to the question of the receiving of bank-notes by government, to the power of Congress over the paper currency? Will he admit that these questions ought to be regarded as decided by the settled sense of Congress and of the country? O, no! Far otherwise. From these rules of judgment, and from the influence of all considerations of this practical nature, the honorable member now takes these questions with him into the upper heights of metaphysics, into the regions of those refinements and subtile arguments which he rejected with so much decision in 1817, as appears by this speech. He quits his old ground of common sense, experience, and the general understanding of the country, for a flight among theories and ethereal abstractions.

And now, Sir, let me ask, when did the honorable member relinquish these early opinions and principles of his? When did he make known his adhesion to the doctrines of the State-rights party? We have been speaking of transactions in 1816 and 1817. What the gentleman's opinions then were, we have seen. When did he announce himself a State-rights man? I have already said, Sir, that nobody knew of his claiming that character until after the commencement of 1825; and I have said so, because I have before me an address of his to his neighbors at Abbeville, in May of that year, in which he recounts, very properly, the principal incidents in his career as a member of Congress and as head of a department; and in which he says that, as a member of Congress, he had given his zealous efforts in favor of a restoration of specie currency, of a due protection of those manufactures which had taken root during the war, and, finally, of a system for connecting the various parts of the country by a judicious system of internal improvement. He adds, that it afterwards became his duty, as a member of the administration, to aid in sustaining against the boldest assaults those

very measures which, as a member of Congress, he had contributed to establish.

And now, Sir, since the honorable gentleman says he has differed with me on constitutional questions, will he be pleased to say what constitutional opinion I have ever avowed for which I have not his express authority? Is it on the bank power? the tariff power? the power of internal improvement? I have shown his votes, his speeches, and his conduct, on all these subjects, up to the time when General Jackson became a candidate for the Presidency. From that time, Sir, I know we have differed; but if there was any difference before that time, I call upon him to point it out, to declare what was the occasion, what the question, and what the difference? And if before that period, Sir, by any speech, any vote, any public proceeding, or by any mode of announcement whatever, he gave the world to know that he belonged to the State-rights party, I hope he will now be kind enough to produce it, or to refer to it, or to tell us where we may look for it.

Sir, I will pursue this topic no farther. I would not have pursued it so far, I would not have entered upon it at all, had it not been for the astonishment I felt, mingled, I confess, with something of warmer feeling, when the honorable gentleman declared that he had always differed with me on constitutional questions. Sir, the honorable member read a quotation or two from a speech of mine in 1816, on the currency or bank question. With what intent, or to what end? What inconsistency does he show? Speaking of the *legal* currency of the country, that is, the coin, I then said it was in a good state. Was not that true? I was speaking of the legal currency; of that which the law made a tender. And how is that inconsistent with any thing said by me now, or ever said by me? I declared then, he says, that the framers of this government were hard-money men. Certainly they were. But are not the friends of a convertible paper *hard-money men*, in every practical and sensible meaning of the term? Did I, in that speech, or any other, insist on excluding all convertible paper from the uses of society? Most assuredly I did not. I never quite so far lost my wits, I think. There is but a single sentence in that speech which I should qualify if I were to deliver it again, and that the honorable member has not noticed. It is a paragraph respecting the

power of Congress over the circulation of State banks, which might perhaps need explanation or correction. Understanding it as applicable to the case then before Congress, all the rest is perfectly accordant with my present opinions. It is well known that I never doubted the power of Congress to create a bank; that I was always in favor of a bank, constituted on proper principles; that I voted for the bank bill of 1815; and that I opposed that of 1816 only on account of one or two of its provisions, which I and others hoped to be able to strike out. I am a hard-money man, and always have been, and always shall be. But I know the great use of such bank paper as is convertible into hard money on demand; which may be called specie paper, and which is equivalent to specie in value, and much more convenient and useful for common purposes. On the other hand, I abhor all irredeemable paper; all old-fashioned paper money; all deceptive promises; every thing, indeed, in the shape of paper issued for circulation, whether by government or individuals, which cannot be turned into gold and silver at the will of the holder.

But, Sir, I have insisted that government is bound to protect and regulate the means of commerce, to see that there is a sound currency for the use of the people. The honorable gentleman asks, What then is the limit? Must Congress also furnish all means of commerce? Must it furnish weights and scales and steelyards? Most undoubtedly, Sir, it must regulate weights and measures, and it does so. But the answer to the general question is very obvious. Government must furnish all that which none but government can furnish. Government must do that for individuals which individuals cannot do for themselves. That is the very end of government. Why else have we a government? Can individuals make a currency? Can individuals regulate money? The distinction is as broad and plain as the Pennsylvania Avenue. No man can mistake it, or well blunder out of it. The gentleman asks if government must furnish for the people ships, and boats, and wagons. Certainly not. The gentleman here only recites the President's message of September. These things, and all such things, the people can furnish for themselves; but they cannot make a currency; they cannot, individually, decide what shall be the money of the country. That, every body knows, is one of the prerogatives, and one of the

duties, of government; and a duty which I think we are most unwisely and improperly neglecting. We may as well leave the people to make war and to make peace, each man for himself, as to leave to individuals the regulation of commerce and currency.

Mr. President, there are other remarks of the gentleman of which I might take notice. But should I do so, I could only repeat what I have already said, either now or heretofore. I shall, therefore, not now allude to them. My principal purpose in what I have said has been to defend myself; that was my first object; and next, as the honorable member has attempted to take to himself the character of a strict constructionist, and a State-rights man, and on that basis to show a difference, not favorable to me, between his constitutional opinions and my own, heretofore, it has been my intention to show that the power to create a bank, the power to regulate the currency by other and direct means, the power to enact a protective tariff, and the power of internal improvement, in its broadest sense, are all powers which the honorable gentleman himself has supported, has acted on, and in the exercise of which, indeed, he has taken a distinguished lead in the counsels of Congress.

If this has been done, my purpose is answered. I do not wish to prolong the discussion, nor to spin it out into a colloquy. If the honorable member has any thing new to bring forward; if he has any charge to make, any proof, or any specification; if he has any thing to advance against my opinions or my conduct, my honor or patriotism, I am still at home. I am here. If not, then, so far as I am concerned, this discussion will here terminate.

I will say a few words, before I resume my seat, on the motion now pending. That motion is to strike out the specie-paying part of the bill. I have a suspicion, Sir, that the motion will prevail. If it should, it will leave a great vacuum; and how shall that vacuum be filled?

The part proposed to be struck out is that which requires all debts to government to be paid in specie. It makes a good provision for government, and for public men, through all classes. The Secretary of the Treasury, in his letter at the last session, was still more watchful of the interests of the holders of office. He assured us, that, bad as the times were, and notwithstanding

the floods of bad paper which deluged the country, members of Congress should get gold and silver. In my opinion, Sir, this is beginning the use of good money in payments at the wrong end of the list. If there be bad money in the country, I think that Secretaries and other executive officers, and especially members of Congress, should be the last to receive any good money; because they have the power, if they will do their duty, and exercise it, of making the money of the country good for all. I think, Sir, it was a leading feature in Mr. Burke's famous bill for economical reform, that he provided, first of all, for those who are least able to secure themselves. Every body else was to be well paid all they were entitled to before the ministers of the crown, and other political characters, should have any thing. This seems to me very right. But we have a precedent, Sir, in our own country, more directly to the purpose; and as that which we now hope to strike out is the part of the bill furnished or proposed originally by the honorable member from South Carolina, it will naturally devolve on him to supply its place. I wish, therefore, to draw his particular attention to this precedent, which I am now about to produce.

Most members of the Senate will remember, that, before the establishment of this government, and before or about the time that the territory which now constitutes the State of Tennessee was ceded to Congress, the inhabitants of the eastern part of that territory established a government for themselves, and called it the State of Franklin. They adopted a very good constitution, providing for the usual branches of legislative, executive, and judicial power. They laid and collected taxes, and performed other usual acts of legislation. They had, for the present, it is true, no maritime possessions, yet they followed the common forms in constituting high officers; and their governor was not only captain-general and commander-in-chief, but admiral also, so that the navy might have a commander when there should be a navy.

Well, Sir, the currency in this State of Franklin became very much deranged. Specie was scarce, and equally scarce were the notes of specie-paying banks. But the legislature did not propose any divorce of government and people; they did not seek to establish two currencies, one for men in office, and one for the rest of the community. They were content with neigh-

bor's fare. It became necessary to pass what we should call, now-a-days, the civil-list appropriation-bill. They passed such a bill; and when we shall have made a void in the bill now before us by striking out specie payments for government, I recommend to its friends to fill the gap by inserting, if not the same provisions as were in the law of the State of Franklin, at least something in the same spirit.

The preamble of that law, Sir, begins by reciting, that the collection of taxes in specie had become very oppressive to the good people of the commonwealth, for the want of a circulating medium. A parallel case to ours, Sir, exactly. It recites further, that it is the duty of the legislature to hear, at all times, the prayer of their constituents, and apply as speedy a remedy as lies in their power. These sentiments are very just, and I sincerely wish there was a thorough disposition here to adopt the like.

Acting under the influence of these sound opinions, Sir, the legislature of Franklin passed a law for the support of the civil list, which, as it is short, I will beg permission to read. It is as follows: —

"*Be it enacted by the General Assembly of the State of Franklin, and it is hereby enacted by the authority of the same*, That, from the first day of January, A. D. 1789, the salaries of the civil officers of this commonwealth be as follows, to wit:

"His excellency, the governor, *per annum*, one thousand deer-skins; his honor, the chief justice, five hundred do. do.; the attorney-general, five hundred do. do.; secretary to his excellency the governor, five hundred raccoon do.; the treasurer of the State, four hundred and fifty otter do.; each county clerk, three hundred beaver do.; clerk of the house of commons, two hundred raccoon do.; members of assembly, *per diem*, three do. do.; justice's fee for signing a warrant, one musk-rat do.; to the constable, for serving a warrant, one mink do.

"Enacted into a law this 18th day of October, 1788, under the great seal of the State.

"Witness his excellency, &c.

"*Governor, captain-general, commander-in-chief, and admiral in and over said State.*"

This, Sir, is the law, the spirit of which I commend to gentlemen. I will not speak of the appropriateness of these several

allowances for the civil list. But the example is good, and I am of opinion that, until Congress shall perform its duty, by seeing that the country enjoys a good currency, the same medium which the people are obliged to use, whether it be skins or rags, is good enough for its own members.

GRADUATION OF THE PRICE OF THE PUBLIC LANDS.*

MR. PRESIDENT, — I have hardly had time to look at the bill before I am called on to vote on the question of its indefinite postponement. I shall, however, take the occasion to say a few words, principally because it is known that, on some of the subjects connected with the public lands, I have the misfortune to differ with those with whom I generally act. I well recollect that my attention was earnestly called to this subject by Mr. Madison, at the close of his administration, who remarked that the Northern and Atlantic members of Congress had been quite too inattentive to it; that it was a great interest. It may show how much even Mr. Madison underrated this interest, when I state that he proceeded to remark, that he had no doubt, under a proper administration, the public lands would yield annually *a million and a half* of dollars.

The earliest occasion for my taking a part in the deliberations on the public lands was during the first session in which I took my seat in the Senate. A graduation bill was then before Congress, and the whole subject was much discussed. I at that time heard doctrines and sentiments advanced which struck me very strangely. I recollect an able and elaborate argument by a member from Indiana, designed to prove that all the new lands in any new State became the property of that State, by the mere fact of her admission into the Union. I heard a speech in favor of the same sentiment by a member from Alabama, so distinguished for legal and constitutional attainments as since to have been made a judge of the Supreme Court of the United States.

* Remarks made in the Senate of the United States, on the 14th of January, 1839, on the Bill to graduate the Price of the Public Lands, the question being on the indefinite postponement of the Bill.

These doctrines and opinions I have certainly opposed to the utmost of my power, as having no foundation in constitutional law, and as subversive of all justice and equity to the States. They did not obtain much favor with the country, and, after a while, appear to have been abandoned. But another proposition has subsequently arisen in another quarter, in my opinion equally objectionable, which is, that, though the public lands rightfully belong to this government, yet Congress ought to cede them to the States in which they lie. This also I opposed, and shall continue to oppose, because I regard it as palpable injustice to the States generally, and a direct violation of the trust upon which the lands were originally conveyed to Congress.

In regard to both these propositions, while I have exerted myself to maintain what I thought the true interests of the country, I have the pleasure of concurring with those with whom I generally act on political subjects. With regard, however, to some subordinate questions as to *the mode of administering* this trust, I differed with them last session on the preëmption bill. I was in favor of that bill. I wished then, and wish now, that the bill had been more perfect, so as to carry out more fully and completely the intentions of Congress. On this subject of graduation, also, I expressed opinions at an early day in which my friends do not concur. In the session of 1827–28, before referred to, I moved to amend the bill then pending by striking out all after the enacting clause, and inserting what I will now read.

"That, at any time from and after the first day of January, anno Domini one thousand eight hundred and twenty-nine, such portions of the public lands as shall have been offered at public sale, and shall also have been subject to entry at private sale, for the term of ——— years, and shall still remain unsold, shall thenceforward be offered at private sale in parcels conforming to sectional divisions and subdivisions, at the rate of ——— per acre.

"Sec. 2. *And be it further enacted*, That it shall and may be lawful for any head of a family, young man over the age of twenty-one years, or widow, not having received a donation of land from the United States, and wishing to become an actual settler on any parcel of public land authorized by the first section of this act to be sold at ——— per acre, and not exceeding in quantity the amount of one quarter-section, to demand and receive, from the proper register and receiver, a written

permission to settle on the same, upon payment, to be made to the proper receiver, of the sum of ——— cents per acre; and if such person, so applying for and receiving such permission, shall forthwith settle on the said land, and he or she, or his or her heirs or legal representatives, shall cultivate the same for five successive years, and shall be a citizen or citizens of the United States at the end of that time, then, on proper proof being made, before the register and receiver, of such settlement, cultivation, and citizenship, a patent shall issue for the said land to the person who received such permission, or his or her heirs or legal representatives. And the faith of the United States is hereby pledged to all persons who may settle on the public lands, according to the provisions of this section, that no dispensation shall, at any time, be granted to any individual from complying with the substantial conditions herein prescribed. And if due proof of settlement, cultivation, and citizenship, as herein required, be not made within ——— years next after the expiration of said five years, the said land shall again be subject to entry at private sale, as land belonging to the United States."

The Senate will take notice that the bill then pending was a bill "to graduate the price of the public lands, to make donations thereof to actual settlers, and to cede the refuse to the States in which they lie"; and that my amendment embraced two objects, the graduation of price and the donation to actual settlers, but rejected all cessions to the States. It will be noticed, too, that this graduation proposed but one step, and to stop there. As to donations to actual settlers, I have often expressed the opinion, and still entertain it, that it would have been a wise policy in government, from the first, to make a donation of a half or whole quarter-section to every actual settler, the head of a family, upon condition of habitation and cultivation; that this would have been far better, and freer from abuse, than any system of preëmption.

And as to *graduation*, what is it? It simply means a reduction of the price, in order to make sales of lands that will not sell at the existing price. Certainly it can be no matter of *principle* that all lands, good and bad, shall be held at the same rate. It may be expedient or inexpedient, but no principle is involved in the matter. The law of 1820, which reduced the price of all lands from $2 to $1.25 an acre, was itself a graduation bill, and a most important one, and its effects have been generally thought to be useful. When lands have been a

long time in market at a certain price, and have not commanded it, why should they not be put at a price at which they will sell? In all this matter I have always felt the conviction that the real object of the conveyance of these lands to the United States was, that they should be sold and settled. Sale and settlement were the great ends in view. I do not mean that they are to be sold in a hurry, or crowded on the market beyond the demand. But they are to be sold at reasonable prices, as fast as the country can be settled. In some cases, lands have been in market for twenty years. They are inferior lands, and cannot be sold at the general price. Why should they, then, not be sold at such a price as they will bring? Is not this what an individual would do who held lands in trust to sell? I know very well that, where these poorer lands are mixed in with better lands which have been sold, the sale and cultivation of these better lands in the neighborhood have raised the price of the poorer lands; so that, in such places, some of these poorer lands are disposed of every year at the common price. Yet even here the sales are inconsiderable and lingering.

But then there are other considerations which form the main reason for graduation of prices. They operate when very large *tracts* of land are altogether of very inferior quality. Such large tracts exist in several of the Southwestern States, in Mississippi, Arkansas, Louisiana, and Alabama. There is reason to believe that large territories of this description will not sell, at the present price, in half a century, nor a century. This state of things is inconvenient to the States, without being useful to the United States. While held by the United States, these lands are not subject to State taxation. They contribute nothing to the burdens thrown on other lands. There is a great proprietor in the State, holding large territory, exempt from common burdens. Let it be remembered that our trust is to sell and settle, not to hold permanently. It is to sell and settle, and to apply the proceeds to purposes beneficial to all the people of the United States. I am against all notion of permanent holding. I have always been opposed to the policy of reserving lands supposed to contain mines, with a view of leasing them, and deriving rent to government. My opinion has always been, that these lands should be examined, explored, their true value ascertained and disclosed, and then the lands sold, like other lands, to the highest bidder.

I have said that, when I brought forward my proposition, in April, 1828, most of my political friends voted for it. But it was rejected by a majority of the Senate; and the bill then before the Senate, being on its passage, was also rejected.

I have now stated, in very few words, the history of my opinions on this subject of graduation. I hope it is apparent, at least, that I have embraced no new sentiments suddenly. I think, as I always have thought, that graduation is a question of degree. It is wise or unwise as it is slow and reasonable or as it is sudden and extravagant. I am for a slow graduation. I have proposed but one step. I am for trying that first, and seeing the effect. I have felt, and still feel, perfectly confident, that there are vast tracts of land now lying within the limits of some of the States, that will not be disposed of for some generations to come without a reduction of price. If the present bill shall be made conformable to my proposition of 1828, I shall vote for it. But I doubt exceedingly whether a bill satisfactory to any part of the Senate can be carried through Congress at this session. There is beginning to be a good deal of excitement on the subject in the country. The doctrines that have been set up have at length alarmed the States and the people. For my part, I am glad to see this roused attention. I am glad to see the public mind thus awakened. The public lands are a fund for the use of all the people of the United States; and while I wish that this fund should be administered in a spirit of the utmost kindness to the actual settlers and the people of the new States, I shall consent to no trifling with it, no wasting of it, no cession of it, no diversion of it in any manner from that general public use for which it was created.

GENERAL EFFECTS OF PROTECTION.*

MR. PRESIDENT, — It is not my purpose at present to enter far into the wide field of debate which is opened by this discussion. Another opportunity will probably present itself for the expression of my opinions upon the general state of the country, and the measures which, in my judgment, are called for by the crisis. My single purpose now is, to make a few remarks upon the speech of the honorable member from South Carolina, delivered a short time since, or rather upon some of the topics of that speech. I had not the pleasure of hearing the speech, but I have read it attentively, with the respect due to the subject and to the author; and the remarks which I propose to make upon it I desire to address to the honorable member himself, and his friends who think with him, as well as to the public at large. It is an able speech, showing much thought and reflection as well as much acuteness, and exhibiting, on the whole, a spirit apparently not unkind towards all the great interests of the country. My remarks shall be in the same spirit.

I. In treating of protection, or protective duties, the first proposition of the honorable member is, that all duties laid on imports really fall on exports; that they are a toll paid for going to market. This, certainly, is not very obvious; but he says it is the received and settled doctrine of the South. He does not argue the point on this occasion; he only states it as the fixed belief of the South. I shall not argue it, but content myself with saying, that I have never been able to agree to this doc-

* Remarks made in the Senate of the United States, on the 3d of March, 1840, in Answer to some parts of Mr. Calhoun's Speech of the 5th of February.

trine. The question was debated with much ability, some years ago, between my honorable colleague* and a distinguished gentleman from South Carolina,† both being, at that time, members of the other house. The South Carolina doctrine was then called the "Forty-bale Theory"; and the result of the discussion certainly left most of us at the North still adhering to the old doctrine; namely, that, when duties are laid upon imported articles, it is the consumer who pays them; and, of course, that each part of the country pays in exact proportion to what it consumes. We think that the trade outwards has little or nothing to do with the subject. We think the substantial question is, Who consumes the taxed article?

I can, indeed, conceive a possible case in which this general truth might be qualified. If one country exported to another a raw material which it could sell nowhere else, and which no other country could furnish, why then, so far as duties on imports affected the sale of fabrics manufactured from that raw material, or perhaps of other articles imported in return into the country producing it as its equivalent, so far it might be true that the duties would have an influence to check exportation. But no such case exists with us. The South and the West sell their cotton both at home and abroad. But they are not the sole producers of cotton. They have competitors. There is a market on both continents; and in one of them they find the cotton of South America, Texas, India, and Egypt in competition with their own. Our Southern and Western States have a fair demand; nothing obstructs their sales; as in all other cases, the prices are regulated by the supply and the demand. They pay no duty on going out, and if they can produce as cheaply as others, they can afford to sell as cheap. Their commodity, sold in foreign markets, mingles with the commerce of the world. They have received their price for it, and their connection with it has ceased. Whether it comes back here in a manufactured shape, or goes elsewhere, does not concern them, as mere raisers and sellers of the article. If any portion of it comes back here, as doubtless it does, it is a portion which has been purchased in the general market of Europe, manufactured, and perhaps mixed, in the very process, with the

* Hon. John Davis. † Mr. McDuffie.

cotton of other countries, and it reaches our shores as a foreign article for sale. Foreign labor and skill have become incorporated with it, and constitute its chief value. At our custom-house, it is made subject to a duty, which is supposed to raise its price; and it seems to me, if this be the effect of the duty, it is its whole effect. It reaches no farther. I do not see how it acts back upon the original grower of the article in South Carolina. It no more affects the cotton-grower in South Carolina, except so far as he is a consumer, than it affects the cotton-grower in South America, India, or Egypt. The thread of causes and effects in this case, if there be any such thread, becomes quite too fine and attenuated to be felt or followed, from the higher price paid by the consumer in consequence of the duty, back, through all the intermediate stages, to the influence of that higher price upon the original cost of the raw material. The same is true in regard to all imported articles not produced from the exported cotton. How is it possible to say that duties on such articles, iron and woollen cloths, for instance, are a burden or discouragement on the raising of cotton?

But suppose I admit the South Carolina doctrine, suppose I admit that duties on imported merchandise really fall back, and become a charge on the exports of the country; and suppose I admit, what is true, that cotton grown in the Southern States constitutes a great portion of our exports, it by no means follows from all this that the burden of these duties falls on the South, in proportion to the amount of its exports. And the reason is this. These exports are not altogether the result of the skill, labor, or capital of the South. Cotton, though it grows exclusively on Southern fields, is not, in truth, a mere Southern product. Much of the labor of the Middle and Northern States has mingled with it before it becomes an article of export. It is a joint production, to which many parts of the country contribute. The grain-growing States north of the Ohio help to raise and to export cotton, by furnishing provisions to those who cultivate and gather it. Kentucky and Tennessee do the same thing, by the cattle, horses, mules, and swine, upon the foot, which they supply for the use of the cotton plantations. New England does the same by the furniture, clothing, and other manufactured articles which she supplies for the like purpose. All these contribute to this export of cotton. So that,

if it were true that duties at the custom-house on imported goods are a tax on exports, that tax would not fall exclusively on the South.

The value of this export, again, in the foreign market, is enhanced by the cost of transportation. Freight has become incorporated with it, and makes part of its price. At present prices, freight to Europe is probably equal to one eighth of the cost of cotton at New Orleans or Mobile. This freight is a Northern earning; and to this extent, therefore, the navigating interest contributes to the value of the exported article. So that duties, if they were a tax on exports, would not fall exclusively on the South, but would affect the grain-growing, the provision-raising, the stock-raising, the hemp-raising, the manufacturing, and the navigating interests.

But the more we trace this branch of the business of the country, or any other, through all its processes and all its ramifications, the more clearly we shall see, I think, that the old rule is the true rule, and that duties on imported goods are paid by different parts of the country exactly in proportion to their consumption.

II. Another opinion of the honorable member is, that increased production brings about expansion of the currency, and that such increase makes a further increase necessary. His idea is, that, if some goods are manufactured at home, less will be imported; if less goods are imported, the amount of exports still keeping up, the whole export being thus not paid for by the import, specie must be brought in to settle the balance; that this increase of specie gives new powers to the banks to discount; that the banks thereupon make large issues, till the mass of currency becomes redundant and swollen; that this swollen currency augments the price of articles of our own manufacture, and makes it necessary to raise their prices still higher; and this creates a demand for the imposition of new duties. This, as I understand it, is the honorable member's train of thought.

Now, it appears to me that there are several things worthy of consideration, in regard to this supposed course and progress of things. In the first place, it is far from being always true that importations always fall off in consequence of carrying on some branches of manufacture at home. Our history certainly shows no such result, looking through the whole of it, for twenty years.

If there be a large export, the return, if not made in one article, will generally be made in some other. It will usually happen in some way, that, taking all branches of the trade of the country wtih all other countries together, the imports, in a series of years, will be about equal to the amount of exports and the earnings of freight. We have now a list of free articles, of some of which the importations have been not only large, but extravagant; quite large enough, at any rate, to absorb exports, and quite too large, in my opinion, for the good of the country.

The gentleman very properly admits that specie cannot, for a great length of time, set towards our country, from all others, to settle balances of trade, and to make up the deficiency of imports in relation to exports. Specie does, indeed, come to pay up an occasional balance in the trade between a particular country and the rest of the world, and it soon goes away again, to supply a deficiency in the place it came from, or in some other place. There are vibrations in trade, and gold and silver correct these vibrations. But there are other causes, which sometimes operate with greater violence. Disorders in the currency, expected short crops, a political crisis, the fear of war, a panic of any kind, — any of these things are able to disturb the natural course of commercial dealings, and to arrest gold and silver, while they are peaceably performing the common functions of trade. Hence, if we see a very large import of specie in any one year, it does not necessarily follow that our imports have, to that extent, fallen short of our exports. This import of specie may be owing to one or more of the extraneous causes above mentioned; and, in not alluding to these causes, I cannot but think the gentleman overlooked a matter very important to be observed. In our trade with some particular countries, too, the return is in specie in a very great proportion. And as this trade is very irregular, the quantities of specie received from it in different years are very unequal. Thus, in 1833, the whole import of specie into the country was seven millions; the next year, 1834, it was seventeen millions. In 1836, it was thirteen millions; in 1837, it fell to ten millions, and in 1838 rose up again to seventeen millions. Such fluctuations find no corresponding alternations, certainly, in the general balance between exports and imports. The general truth is undeniable, that the tendency of gold and silver, in the ordinary operations of commerce, is

to flow to that country which has become a creditor country by the excess of its exports over its imports; but then their general tendency is so often diverted or arrested by the interference of other causes, that the amount of importation or exportation of specie for a given year is not a criterion by which the balance of trade, or the amount of exports compared with imports for that year, can be decided.

A great portion of the specie imported into the United States comes from South America and Cuba, by way of New Orleans and other ports, and is the return for provisions, and more largely for manufactured articles, shipped to those countries. This fact is important, and deserves consideration in acting upon all subjects of this kind. It is undoubtedly true, that the manufactures of the country bring into it a large supply of specie from South America and the West Indies.

The honorable gentleman, in maintaining his proposition that protection leads to an expansion of the currency, argues that the tariff of 1828 turned the balance of foreign trade in our favor; that this brought in specie; that the like cause turned the domestic trade in favor of the manufacturing States; and that the expansion of circulation, of which he exhibits tables, in those States, is thus distinctly traced to the effect of protection, as tending to bring gold and silver into the country. But all this, I think, admits of doubt. *Post hoc, ergo propter hoc*, is not received as good logic. It strikes me, that this import of silver, and therefore the expansion, so far as it resulted from that import, is quite as likely to be referable to the other causes which I have already mentioned. The specie, it is said, was collected in masses in the North, and there the currency was expanded. But was it not expanded, too, in the South? The gentleman's tables only show four or five Northern States; but how was it, and how is it, in the cotton-growing States? Has there been no expansion in Mississippi and Alabama, or less expansion in those States than in Massachusetts and Rhode Island? It will be found, I think, that there was the least expansion just where it is said the specie was thus brought in by the course of trade.

The next stage in the gentleman's argument is, that this supposed expansion of the currency would increase the cost of producing manufactured articles at home. How increase the cost? In no way but by increasing the price of labor. Now, I do not

learn from him any facts showing that labor rose *greatly* in price, after the tariff of 1828. If it kept up to what it had been, I incline to think that was all. The object, and I think the effect, of the tariff of 1828, was not so much to raise prices high, as to keep the market steady, to give some check to the extravagant amount of foreign importations, and some security that labor should receive a reasonable reward. That is all that was asked. The great abundance of capital abroad, the low rate of interest, and the great sacrifices which were willingly made in Europe for the purpose of prostrating our establishments, called for some security and protection, or we were not likely to be able to maintain competition. And we are always to remember, that, when our own manufactures shall be prostrated by the extremely low prices of imported goods, we shall be obliged immediately to pay extremely high prices for those same imported goods. The fact undoubtedly is, that, under the process of protection, the common price or cost of goods has become less. No one can deny that. Every body knows that goods are both better and cheaper. A man's labor will buy more for him than it would. This is the effect of competition. If we take out of the market the products of our own labor, who does not see that prices would rise enormously? Let this be tried on any article. Take away, for instance, all American hats and shoes; would not the articles be immediately doubled in price? Reasonable protection does not so much raise the price of labor, although it should raise it in some degree, as it multiplies the modes of its employment. It prevents any particular channel from being filled and choked up. One of the secrets of prosperity is, that there shall be a considerable variety in the pursuits and labors of men. I fear our Southern friends do not feel the full influence of this important truth. For my part, as a well-wisher to the South, I should be glad to know that there were manufactures, such as are suited to their wants, the nature of their labor, and their general condition, in every county, from this place to the Gulf of Mexico.

There is still another point of view in which I wish to present the question to the consideration of the honorable gentleman. Suppose the Southern States to produce, every year, the same quantity of cotton. If more be manufactured at home, less will

be exported. Now the honorable member seems to me to reason as if the whole true object or interest of the South was *to export.* But certainly this cannot be so. The object and interest of the cotton-growing States is *to sell,* not *to export.* If they find a customer at home who pays a good price, their object is answered. The true question, therefore, in this respect, is, not whether they export as much, but whether they sell as much, and at as good prices; and unless all the rules of trade are false, the fact of there being two markets for the sale of a commodity, instead of one, tends strongly to keep up, and to keep steady, the price of the article to be sold.

III. There is a third general idea of the honorable gentleman, upon which I would make a few observations. It is, that the South and West are the great consumers of the products of the manufactures of the North and East; that the capacity of the South to consume depends on her great staples; and that the sale of these depends mainly on a foreign market.

Now I have already said, that if the South can sell her cotton, or part of it, to New England, for the same prices, it is as well for her as to sell it all to Old England. Her income depends on the price, not on the place of sale. If an export of sixty millions is reduced to an export of forty millions, in consequence of there having been found a market at home for twenty millions, it is not only no worse for the South, but is, in truth, much better. This is perfectly plain; and I must confess it has always appeared to me to be the strangest thing in the world that our Southern friends should look with jealousy and ill-will on a market rising up in the North and East for their own great staple; thus not only giving them the general advantage of another large market, which advantage is itself always great, but giving them the additional advantage of a nearer market, and a more certain and steady market, because not so liable to be disturbed either by the political events or the commercial contingencies of Europe. I have inquired much into this subject, and I find that intelligent merchants in New Orleans and Mobile regard the home market as of very great importance to the cotton-planter. The Eastern demand, they say, comes in early, takes away the first part of the crop, and helps, therefore, to fix the price, and to fix it high. Some have estimated this advantage as equivalent to two cents on the pound of cotton. All must

see, I think, that it is a clear and great advantage, and I wish the subject might be calmly considered and weighed by the honorable member from South Carolina and his friends.

But, at any rate, the fact that some portion of her annual product, instead of being exported, is sold at home, cannot possibly diminish the capacity of the South to buy and consume the manufactured articles of the East, or any other articles. The cotton-planter sends his crop to New York; it is there sold, and all at the same price. How does it affect his income, or his ability to purchase what he wants, whether all his cotton so sold be sent to Europe, or part of it be carried to be manufactured in Massachusetts?

But now look to the other side. Of what consequence is it to the North and East that the South is able to buy their productions, if overwhelming importations from abroad render them unable to sustain competition? If the cheaper labor of Europe underbids them in every thing, if these frequent inundations of foreign commodities break up their establishments, how are they benefited by the ability of the South to buy and consume? So that, turn it as we will, it all comes back to the steady price and security of labor. And all the theories lately started, and pressed with so much earnestness, go directly and necessarily to one point; and that is, the reduction of the price of labor. On this I might say much, but at present will confine myself to one or two remarks.

In the first place, when labor is employed, labor can consume; when it is not employed, it cannot consume. Who buys the pork and the lard of the Northwestern States? Who takes the corn of North Carolina and Virginia, and the flour of the latter State? Is it not the North and the East? Virginia and Carolina have no better customer than Massachusetts. To say nothing of the amount of naval stores received from North Carolina, and used by the navigating interest of the East, let me only refer to bread-stuffs. Two millions of bushels of corn, and four hundred thousand barrels of flour, have been imported into the single city of Boston in one year. Most of this corn is from North Carolina and Virginia, and much of the flour from Virginia. I find it has been estimated that upwards of *six millions of dollars* have been paid by Massachusetts for bread-stuffs imported in a single year. All this is

consumed and paid for by employed labor. Take away employment from our labor, or drive it from its accustomed pursuits, and its power of consumption is at an end.

But not only does the protection of labor in the North and East enable it to buy the products of the South, but all protection of labor increases general consumption. Hence we find that the manufacture of many useful articles at home does not diminish the aggregate amount of importations. This is a very important truth, and all our history confirms it. I have looked at the tables of exports and imports, from the very first origin of this government, and I do not find any thing to countenance the idea that imports, in the aggregate, fall off in consequence of protecting labor at home. There were quite as great fluctuations forty or forty-five years ago, as there have been since the tariff of 1824. A well-employed and prosperous community can buy and consume. An ill-employed community cannot buy and consume. This is the solution of the whole matter, and the whole science of political economy has not one truth of half so much importance as this.

One word more. The experiment of low wages has been often tried. We see it going on now in Asia and many parts of Europe. My colleague has recently given us a list of the prices of labor in various countries. We know what those countries are, and what the condition of the people is. On the other hand, we have tried the experiment of high wages; and has it not produced the best condition of society, for the general happiness of all, that has ever existed upon the face of the earth?

IV. A fourth sentiment of the honorable member is, that the removal of all duties increases the exportation of articles manufactured at home. I cannot conceive how this can be true. If foreigners can beat us in our own market, they can beat us elsewhere. The exports of domestic articles, in the years stated in the tables which the honorable gentleman has read, are not at all referable, I think, to any such cause as he supposes; that is to say, some natural cause necessarily producing such a result. The truth is, that prices fell, at that time, in consequence of excessive importations from Europe, and the holders of our own manufactured goods were obliged to get rid of them, by exportation or otherwise, in the best manner they could. It is known that our exports of manufactured articles have been

very variable and irregular. When importations have been great, and prices become reduced, then exportation has taken place. Our manufacturers have, in many instances, shown much skill in the fabrication of articles suited to foreign markets. For a while they have been successful, in some degree; but the English have always been ready to imitate them, and profit by their example. If a particular article, manufactured in the United States, has been found capable of being sold to a profit in the Mediterranean, in South America, in India, or in China, the English manufacturer has immediately set himself to work to produce a similar article, and to drive the American article out of the market, by a like article afforded at a lower price, because the result of cheaper labor. These English articles have been sold as *American* products. The stamp of "Lowell," and "Tremont Mills," or "Lawrence Mills," has been found in Asia, and in South America, on articles manufactured at Manchester in England.

V. Finally, the honorable member is of opinion that the whole system of protection was prostrated, and is prostrated, cut up, root and branch, and exterminated for ever, by the State interposition of South Carolina. He has often expressed this opinion before. I only take notice of it now, as he has expressed it very strongly, and as it leads me to fear that I have been wrong in the expectation which I have been willing to cherish, that he himself would see both the justice and the political wisdom of giving moderate and reasonable protection, and of continuing it, so long as necessary, to some of the great, leading, and important branches of domestic industry.

I have only to add, that I wish men of all parties, who entertain the opinion that duties on imports fall heavily and unequally on the South, would calmly reconsider that opinion. Look to the great article of woollen cloths; where are they most consumed, because most necessary? Our laborers cannot, and must not, be left shivering under a Northern sky, with the slight clothing which may be sufficient to protect the laborer of the South. They must have woollens, and they pay the price for them; and pay the price enhanced, if enhanced, by the duties; and pay it willingly, for the sake of being secured in the hopes of a reasonable reward for their labor. This heavy article, one of those which pays most revenue, is consumed in the

North, out of all proportion, more than in the South. Look to iron, another important article. The remarks applicable to woollens are applicable to this also; and the more so, as the manufacturing districts themselves are great consumers of iron. The same may be said of lead, and many other articles.

Sir, it is not my object to show that the South does not pay her part of the public contributions. I admit, most cheerfully, that she does pay her part; but my purpose has been to show, if I could, that she does not bear an unequal, and consequently an unjust, portion of the public burdens, as the gentleman has supposed. I am quite sure that a calm and dispassionate consideration of this whole subject, by intelligent and enlightened men, on either side of the Potomac, would result in the conviction that there is really no such wide difference, in regard to what the interests of the different parts of the country require, as ought either to endanger the security of the Union, or create ill-will. For myself, I fully and conscientiously believe that, in regard to this whole question, the interest of the North and East is entirely reconcilable to the real, solid, and permanent interest of the South and West.

THE TREASURY-NOTE BILL.*

I REGRET, Mr. President, that the chairman of the committee is absent, as he might probably have made use of this occasion, not only to show the necessity of raising this sum of five millions, for the immediate use of government, by some extraordinary means, but also to state his opinions upon the public revenue, both in regard to its present state and its prospect for the future.

The sum and substance of the measure now before us is, to borrow five millions of dollars, for two years, if necessary, at any rate of interest not exceeding six per cent. This borrowing is to be done by means of issuing treasury-notes bearing interest; and so often as they shall be received at the treasury, they are to be re-issued, so that the whole sum of five millions may be kept out. And the authority to issue and re-issue is to last one year. The consequence of this is, that, one year from the date of the bill, if the whole five millions be not then outstanding, the balance may be issued, redeemable in a year from that time. It is a power, therefore, to make a loan for five millions, with an authority to continue that loan, by borrowing to-day to repay the sum borrowed yesterday, and to continue this process, in effect, for two years. This is the substance of the bill.

Mr. President, at the opening of the session, the President of the United States informed Congress that the financial operations of the government for the past year had been very successful. The Secretary, too, in the very first paragraph of his annual report, stated, with much satisfaction, that the revenue

* A Speech delivered in the Senate of the United States, on the 30th of March, 1840, on the Treasury-Note Bill.

of the government had been increased and the expenditures diminished. That the resources of the country are abundant, no one can doubt. Its wealth, its activity, its commerce, and its freedom from burdensome taxation, render it able to raise, with entire facility, a revenue quite equal to all the just wants and necessities of the government. But, notwithstanding these congratulations of the President and Secretary, I cannot but entertain a doubt whether, under the operation of provisions now actually existing, and under the expenditures which have been made and are making, or are in anticipation, we ought to indulge in sanguine hopes of an overflowing treasury. This doubt receives countenance from the fact, that the bill before us is to authorize the borrowing of five millions, in the form of treasury-notes, and under such circumstances as leave no reasonable hope, as I think, of their redemption within this year. I do not oppose the bill, but I propose to say a few words on the state of the treasury, and on the history of its receipts and disbursements for the last three years.

We learn, from the Secretary's annual communication, that, at the commencement of this year, there was in the treasury no more than a million and a half of dollars available for the purposes of government. I omit fractions, and use round numbers, for the sake of brevity. At the same time, the government owed, on outstanding treasury-notes bearing interest, two millions and three quarters, or two millions seven hundred and fifty thousand dollars. This was the state of the treasury on the 1st of January, 1840, as nearly as the Secretary could estimate or ascertain it in December. It turns out from the paper just read, that, in fact, there were a few hundred thousand dollars more in the treasury in January than the Secretary's estimate, but from what funds or sources does not appear; but this circumstance does not affect the general view which I propose to take.

Let us now go back to the 1st of January, 1837. In 1836, there being a great surplus in the treasury, the deposit law was passed, by which five millions were to be retained in the treasury, in aid of accruing revenues that should be in the treasury on the 1st of January, 1837, to meet future demands, and the rest of the money was to be deposited with the States, in four quarterly payments or instalments.

As the Secretary was obliged to make his calculation a little

before the 1st of January, and could not say exactly what amount might be in the treasury at that time, he made a safe allowance; and it happened in the end, I think, that six millions and more were retained in the treasury, instead of five. At the commencement of 1837, then, the government had on hand six millions; and it had before it the whole accruing revenue of the year. Before the year was out, that is to say, in the September session, Congress suspended the payment of the last or fourth instalment, or fourth deposit with the States. This measure retained in the treasury a further sum of nine millions, thus raising the reserved aggregate up to fifteen millions. Subsequently, the treasury received from the Pennsylvania Bank of the United States five millions of dollars, as part of the property or capital of the United States in the former bank. This swelled the amount to twenty millions of dollars. So that, since January, 1837, the treasury has had full twenty millions of former receipts, as well as all the revenues arising since.

Now, it is apparent that these twenty millions have been expended within the three years, in addition to all the revenue which has accrued in the mean time, with one deduction, which I shall state. It is true that, in September, 1837, Congress suspended or postponed the payment of certain custom-house bonds; but the time of postponement has long since expired, and the bonds have been paid. It is true, also, that the deposit banks, in 1837, held certain sums belonging to government, which they wished time to pay. But before the commencement of this year these debts had been brought down to a million of dollars, or thereabouts. The true account, then, stands thus:—

Reserved under the Deposit Act, ...	$ 6,000,000
Amount of fourth deposit held back from the States,	9,000,000
Received from the Bank of the United States, .	5,000,000
Borrowed on treasury-notes, outstanding January 1, 1840, ...	2,750,000
	$ 22,750,000
Deduct amount in treasury, January 1, 1840, .	1,550,000
	$ 21,200,000
Deduct amount still due from deposit banks, . .	1,000,000
Balance, ...	$ 20,200,000

Twenty million two hundred thousand dollars, then, appear to have been expended in the three years between January, 1837, and January, 1840, besides all the receipts from the custom-house, and land offices, and all other sources.

If there be any error in this general statement, I hope some gentleman will point it out, and I will cheerfully make the necessary correction. But if there be no error, if this statement be true, as I suppose, then the result certainly is, that, for the last three years, the government has expended almost seven millions a year beyond its income, and has supplied the deficiency out of funds previously acquired or received. The six millions reserved under the deposit law, the nine millions afterwards withheld from the States, the five millions received from the bank, — all these were funds previously acquired, and none of them any part of the regular income of 1837, 1838, or 1839. All the income and revenue of those years have been expended, and these twenty millions more.

This general state of the treasury, and the history of revenue and expenditure for the last three years, may well awaken attention. We have no twenty millions more in crib to go to. Our capital is expended. There will be two millions and a half due from the Bank of the United States in September, and there is a small balance still due from the deposit banks, both together not exceeding three millions and a half; and for the rest we are to rely on the usual sources, the custom-house and the land offices.

Now, then, the important questions are, Does the administration expect an augmentation of income? Or does it expect such a reduction of expenditure as shall keep it within the income? Or does it contemplate loans, either in the form of treasury-notes or otherwise, to make up deficiencies? And if the last, to what extent?

The present measure is to authorize the immediate issue of five millions in treasury-notes, for the purpose of being paid out to persons having claims on government, or used as means of borrowing money for the necessities of the treasury. I do not intend to oppose the passage of the bill, because I think it quite clear that the money is needed in order to carry on the government. There are, indeed, objections to this form of borrowing money; for it is a borrowing of money, to all intents and pur-

poses. The Secretary, indeed, in a recent communication to the Senate, does not call it borrowing. He avoids that word, as if he were afraid it would burn his mouth. He calls it only "exchanging treasury-notes for specie." This falls under that form of statement now usually called *humbug*. The Secretary receives money, gives for it his treasury-notes, payable a year hence, and bearing an interest of five or six per cent. But this, he thinks, is not borrowing money; it is only "exchanging his notes for money"; a sort of exchange, I believe, which most borrowers are obliged to conform to. The authority, and the only authority, under which he makes this marvellous "exchange," is a section of the law of 1837, which authorizes him to "borrow money."

I cannot say that I think the communication of the Secretary, to which I have referred, is a very full or clear answer to the call of the Senate. But we learn from it, after all, what I was sure must have been the fact, and what it may be of some importance to show. He admits that deposits have been made to the credit of the Treasurer in certain banks; and that thereupon such banks have received treasury-notes to a corresponding amount. And the Treasurer, in a letter accompanying the Secretary's report, says, that these funds are drawn for as other funds, and not specifically. The Secretary says these deposits are special, and in specie. All this is *humbug* again; for all deposits in banks are regarded as specie deposits while banks pay specie, and the Treasurer, as I have remarked, says expressly, that these sums thus deposited are drawn for, when needed, in common with other funds, and not specifically or separately. This idea, or this delusion, or this pretence, for it hardly deserves a respectable name, about special specie deposits, was sufficiently dissipated by the examination, last year, into the conduct of the banks connected with the New York custom-house. When the banks pay specie, a special deposit is nothing but a deposit in specie, or its equivalent; and the amount is paid out, on draft, in specie or its equivalent. And this is the case with all other deposits of money, unless it be left in kegs or bags, and not carried into the general account of the bank. Any one may see how this is, and has been, who will recur to the evidence of the cashier of the Bank of America, on the occasion which I have referred to. As I have already said, the Treasurer informs us

that these deposits are mixed with other funds belonging to the United States in the same bank. That is to say, they all stand together, to his credit, on the books of the bank, and he draws as he has occasion, just as is done by any other dealer with the bank. This is the whole of it. Special specie deposit is a nonentity.

Now, it is easy to see that this mode of obtaining money from the banks may be of very considerable profit to them. Suppose a bank deposits a million of dollars to the credit of the treasury, and receives therefor a million of dollars in treasury-notes, bearing an interest of six per cent. Interest immediately accrues to the bank, of course, on the whole of this sum; but it may be many months before it is all drawn out. The treasury may give out its drafts slowly, and these drafts, when made, may be sent to distant parts of the country, and be some considerable time in reaching the bank. When they arrive, the bank will generally pay in its own notes; but, beside this advantage, it will make a clear gain, because it has been receiving interest on more money than it has parted with. Under the law of 1836, the deposit banks were required *to pay interest* on government deposits. The present system looks very much like making government pay the banks interest on its own deposits.

There are objections, I repeat, to the use of treasury-notes as a means of borrowing money. In the first place, the interest must be higher than on a loan contracted in the common manner. The greater part of all the treasury-notes issued since 1837 have borne an interest of six per cent.; whereas my information is, and I have little doubt of the correctness of it, that United States stock, bearing four and a half per cent. interest, could be readily sold at par abroad, not having any great number of years to run; or it could readily be sold at home, with a view of sending it abroad.

In the next place, treasury-notes bearing a high interest, and redeemable at any time, upon two months' notice, issued under the present circumstances of the country, are very likely to absorb a considerable portion of the money now so much needed for the relief of trade and commerce, and the revival of business. It strikes me that the whole operation is likely to make money scarcer than it is already; since the treasury is coming into the market as a borrower, offering a high interest.

Again, I am aware that a use may be made of treasury-notes which is quite opposed to the spirit of the Constitution; that is, to issue them without interest, or with a mere nominal interest, and to attempt to force them into circulation as money. Any such attempt ought to be strenuously resisted; being neither more nor less than an attempt to establish a system of government paper money.

But Congress has sanctioned long ago, and under better auspices, the occasional issue of treasury-notes, and therefore, as no other mode is proposed, I do not feel at liberty to withhold my assent on the present emergency from that mode of raising the sums which the state of the country requires. Both the President and Secretary would seem excessively anxious to distinguish the issue of treasury-notes from the creation of a debt; but I think this distinction is without a difference. A note issued, bearing interest, and payable hereafter, has created a debt as much as any form of stock could create it. A national debt was actually commenced at the very first session of Congress under the present administration, and it never has been paid, except as one obligation has been discharged by borrowing money on another. Like other debtors, we have renewed our notes, and renewed them often, sometimes paying high interest; but we have never extinguished the debt. The first treasury-notes were issued in the autumn of 1837. The amount outstanding in January, 1838, was, I think, four or five millions; in January, 1839, it was also large; and in January, 1840, as I have already said, the Secretary states it at two millions and three quarters.

One object of the present bill is to enable the treasury to pay off the unpaid part of these two millions and three quarters by borrowing again. So that it is true that, from the first session of Congress under this administration to the present day, the government has been in debt for borrowed money, and has been every hour paying interest for such borrowed money. This is a *public debt.* What this debt may amount to by March, 1841, I cannot say. It depends on measures to be adopted by Congress, and on those changes and fluctuations in trade which cannot be foreseen. But if no new means of revenue are supplied, and Congress should make such appropriations as it usually has done, and no great improvement in the state of affairs should

take place, I cannot see how it is likely to fall short of eight or ten millions. But this is mere estimate. Whatever the amount may be, however, in March, 1841, it will be a debt created by the present administration. I do not say unnecessarily created. I am not now speaking to that point. But I say it will be a debt, a public debt, a national debt, begun under this administration, a debt existing in the least economical and the most inconvenient form, a debt bearing an interest, and a debt which, if cast on the administration of 1841, whoever may be at the head of that administration, must be provided for. I say this, Sir, merely to preclude, *ab ante*, the idea that, if a national debt shall be found existing after March, 1841, it will be the debt of the administration of that time, and not of the present. My ground of complaint in reference to this matter against the present administration, and I think it a very just ground, is, that it did not come out long ago, and, in a manly tone, tell Congress that there was a necessity to make further provision for revenue.

The President, in his message of the 2d of December, observed that all the treasury-notes then outstanding would have been redeemed before that time, "if the treasury could have realized payments due to it from the banks." What banks? The outstanding treasury-notes amounted, at that time, to two millions and three quarters. The deposit banks owed the government only a million, or a million one hundred thousand dollars. The President must have included the bond of two millions and a half of the Bank of the United States. But that bond is not, by the terms of it, due till September next. There could have been no disappointment, therefore, in not realizing the payment of that before the date of the message. The President makes very just observations upon the impolicy and danger of commencing a public debt in a time of peace; of the fearful rapidity with which such debts are apt to be increased; and upon our duty to struggle against such debts at the threshold. But all this does not prove that money borrowed and still owed on treasury-notes is not a national debt. All this does not prove that we have not been borrowing money on the strength of the public credit, paying high interest for it, and having an immediate prospect of being obliged very considerably to increase its amount. I know no way of keeping out of debt, but by bringing the rev-

enue up to the expenditure, or bringing the expenditure down to the revenue. If we owe for borrowed money, it is puerile to talk about the form of our obligation, as if one form was less a debt than another. It would be much more wise to set ourselves at once about getting the means of payment. Good aphorisms upon the subject of a national debt should be followed, I think, by direct and responsible recommendations to Congress of such measures as are necessary to prevent the evil.

Let us now, Mr. President, look to the Secretary's estimate of means and of expenditures for the present year.

And, first, of the means. He thinks the receipts into the treasury from customs, lands, and miscellaneous sources, will not exceed eighteen million six hundred thousand dollars.

	$18,600,000
Amount in the treasury, January 1, 1840, . .	1,556,385
	$20,156,385
Expected to be paid on United States Bank bond,	2,526,576
Due from deposit banks, ...	1,149,904
	$23,832,865

But the Secretary does not deem it prudent to rely on the collection of these debts; and as to the receipts from the custom-house, the great source of expected income, I presume his hopes are not stronger now than they were at the commencement of the year.

Let us now turn to the other side of the account, and see the estimate of expenditures. On this head, he says that, if Congress should make appropriations to the extent desired by the different departments, the expenditures of the year will amount to $20,000,000

Besides the payment of outstanding treasury-notes, amounting to 2,750,000

$22,750,000

This would leave an apparent balance in the treasury, at the beginning of next year, of . . $1,082,865

But this sum is less than the amount due from the deposit banks, the payment of which, he says, ought not to be relied on. If no part of that sum should be paid, the treasury, according to this statement, will be *minus* at the close of this year. Probably

some part of it will be paid; but at best, and if the Secretary's hopes should all be fulfilled, it will be, upon his showing, a touch-and-go affair.

But, as he does not rely on receiving these debts from the banks, what does he propose? He speaks always of treasury-notes as being a temporary expedient only, and that they are to be redeemed within the year. I do not think this at all; but that is his ground. How, then, does he propose to provide for the deficiency, in case these bank debts shall not be collected? Why, Sir, he says, very gravely, that one mode of avoiding difficulty will be to reduce the appropriations by postponing some and lessening others. We need no ghost to tell us that. But *what* appropriations will he reduce? Where shall the lessening take place? or where shall the postponement take place? On what head shall the blow fall? Shall it be on the civil list, or the army, or the navy? He says, in the early part of his communication, that he thinks a reduction can be made without essential injury to any useful objects, "for reasons which will be hereafter enumerated." I have looked through the whole paper carefully, and cannot say that I have met with that enumeration of reasons. Perhaps the chairman of the committee, if he were here, could tell us where those reasons are to be found. He does say, indeed, in a subsequent part of his report, that it may become necessary to diminish the compensation of all officers, civil, military, executive, judicial, and legislative. But he states no proposed rate of reduction; and, indeed, he does not *recommend* reduction at all. He says it may become necessary. Does he think it has become, and is now, necessary? Does he recommend it? Is that his reliance to eke out his ways and means? And what amount of reduction does he suppose such a process would accomplish? It is better to do this, he says, than to expose the treasury to bankruptcy. Does he mean that the treasury will be exposed to bankruptcy if this be not done? Does he mean to say that the treasury will be forthwith bankrupt, unless the pay of the President, heads of departments, judges, members of Congress, and military and civil officers, be immediately reduced? Is it acknowledged that our finances are in this condition? If so, why not recommend the measure at once? Why not tell us, distinctly, what is necessary? Why leave Congress to grope in the dark, amidst many various, and

sometimes inconsistent, propositions and suggestions? When the report begins with such a flourishing paragraph about the great prosperity of the treasury, one is not prepared to see the Secretary come to this complexion of bankruptcy quite so soon.

But, Mr. President, there is at least an apparent inconsistency between the President and the Secretary. The Secretary says the appropriations may be reduced below the estimates, so as to leave two millions in the treasury at the beginning of next year. This will require a reduction of one million, if he reckon on collecting all the balances due from the deposit banks; or if not, then a reduction of a million, and as much more as shall equal what may remain unpaid of these balances. He supposes, then, that these estimates of appropriations may be safely cut down at least one or two millions. This would be a very important saving.

But what says the President? The President says that he "has directed the estimates for 1840 to be subjected to the severest scrutiny, and to be limited to the absolute requirements of the public services." Now, Sir, if his directions have been followed, if these estimates have been subjected to the severest scrutiny, and are limited to the absolute requirements of the public service, where is the reduction to be made? The Secretary, as I have said, specifies nothing, and recommends nothing directly. Where would he have us lop off? Will he spare us one or two millions from his own department. Will the Secretary at War spare a million from his? Or the Secretary of the Navy from his? Why, I ask, should Congress, when called on to appropriate the public moneys, be left in such clouds and such darkness?

Sir, one word as to the manner of making estimates of expenditure for the consideration of Congress. It is a plain and simple business, though from its nature it cannot be very precise, and I cannot see any necessity for enveloping it in so much obscurity and uncertainty. Appropriations are of three classes. In the first place, there are certain existing or standing appropriations, which need not be renewed annually. Such is the sum of two hundred thousand dollars expended every year for arming the militia; and such are some of the classes of pensions, and a few other small charges.

In the second place, there is the large class in which the

charge is created by law, but annual appropriations are required to enable the treasury to disburse the sums necessary for its payment. This includes the army and navy, the civil list, and a variety of miscellaneous objects.

In the third place, there are, as we all know, many appropriations made by Congress for special objects, public or private, which often amount to considerable sums, — private claims, roads and canals, building of light-houses, Indian treaties, and many objects recommended by the executive itself; and these require, every year, a greater or less amount of money from the treasury. The Secretary says that the expenditures of this description which may be sanctioned by Congress annually are very uncertain in their amount. This is true; but then, as these expenditures in every year amount to a considerable sum, and have done so from the very beginning of the government, can any just or comprehensive view of the probable necessities of the treasury be presented which shall leave all such out? It is quite impossible that some such expenditures should not be made. Now, in these estimates and recommendations, I find no provision whatever for any objects of this kind. The estimates are strictly confined to the army, the navy, and the civil list. I find no allowance for a single dollar which we might vote away here upon a private claim. Yet the Secretary tells us, that, if we will keep within the estimates, the means will hold out. But he must know, I should have thought, that we cannot keep within the estimates. It is more than probable, judging from the past, that he himself, before the session is out, will call for appropriations not within the estimates. And does he mean, in that case, to throw on Congress the blame of any deficiency which may arise, by saying that Congress did not keep within the estimates?

If we may believe the President, and if the Secretaries have fulfilled his directions, there is nothing in any of these estimates which is not required by the absolute wants of the government. But we know, Sir, that there are things not in the estimates, in regard to which the wants will be absolute; for instance, the private claims, upon which we are passing here every day, and for many of which we must provide, if we mean to do justice. Besides, do we not see, and know, that, in all human probability, various other occasions of appropriation will arise? Will there

be no contingencies for the war in Florida? no expense for Indian treaties? Is it not possible that events may arise on the north-eastern frontier involving heavy charges?

And again, Sir, does the administration abandon the Cumberland Road? Here is no estimate for a dollar on that head of expenditure. Yet I trust an appropriation for that object will be made. I shall certainly vote for it myself. And harbors on the lakes, — is provision for those places of refuge and safety for those who navigate the lakes to be again postponed? They are not in the estimates. Is no improvement of any other harbor, no new light-house, and nothing else which the protection of Atlantic or inland commerce may require, to be undertaken or provided for? Or, since these things are not within the estimates, if Congress should provide for them, is Congress to be reproached for its conduct, and made answerable for deficiencies?

I say again, Sir, that the executive departments must well know that, for some of these objects, appropriations will of necessity be made; and I repeat, therefore, that it seems to me to have been their duty to present such a plan for receipt and expenditure as should embrace them, and provide for them. The precise amount, I agree, could not be well foreseen. But it must have been foreseen, it could not but have been foreseen, that something would be necessary; and yet the estimates make allowance for nothing.

There is, Sir, in all these executive communications, a constant repetition of sound general maxims about the importance of economy. I hope the virtue will be practised as well as preached. But in my opinion there is no just economy in refusing appropriations for important, necessary, and useful public objects. Let economy begin by cutting off useless objects, and diminishing the expense of accomplishing such as are useful. Let it push its reform to the reduction of the cost of collecting the revenue. Let it take care of expenditures, by trusting the public moneys to honest hands. Let it reduce offices, wherever they can be reduced. In all these, and other like things, let it exert its salutary influence. But is the Cumberland Road to stop, from an impulse of economy? Are the lakes to be left without harbors, from considerations of economy? Are important contingencies in public affairs not to be reasonably

provided for, from reasons of economy? What sort of economy would that be?

Sir, I take that great public virtue, true economy, to consist, not in an undistinguishing neglect or refusal to appropriate money, but in a careful selection of important and necessary objects of expenditure, in the frugal application of means to accomplish these objects, and in enforcing an exact and punctual discharge of duty by every officer charged either with the collection of money, or with any expenditure, great or small. This is my idea of wise and practical economy, such as it becomes us to practise and such as the country will approve. But it is of little value, or no value at all, that executive communications should rehearse to us general economical maxims, unless they show us what objects of expenditure may be disregarded, or in what other way savings may be made. And it would be especially edifying if these general admonitions should be accompanied and enforced by some striking and brilliant examples set by the heads of departments themselves. I presume that no injustice towards Congress is intended, but I must say that, in many of these communications, there are things which seem calculated to assert great merit for economy in the executive departments, and which are but too well calculated to throw upon us an apparent want of that virtue. If it be required of Congress to keep its appropriations within the estimates of the departments, these departments ought, in their estimates, to comprehend all objects which they know, or have reason to believe, Congress must provide for.

Mr. President, I do not know the opinions of other gentlemen, and speak only for myself; but my opinion is, that our existing provisions for revenue are not adequate. I am aware that one branch of expenditure, that of pensions, is rapidly decreasing; but others are quite likely to increase, and we all know what a fall in duties is to take place in no great length of time. Looking to the many useful and important objects which, I think, ought to engage the attention of Congress, it seems to me to be time that further provisions for income should be made. And we have the means at hand. There are articles of import on which we might immediately, in my opinion, lay a considerable duty. The first of these is silks. The importation of this article is enormous. In 1839, it exceeded twenty-one millions

of dollars. Think of that. An annual consumption of an untaxed imported article of mere luxury of twenty-one millions of dollars! Those silks clothe no poor man, nor his wife nor children. The whole use and consumption are by the affluent. Is there a fairer subject of import duty in the world? Our table is loaded with petitions on this subject by those who are attempting the manufacture of silk among ourselves. This itself is a good reason for taxing the imported article. But as a subject of revenue, nothing can be fairer or more proper. Good would come every way from a duty on silk. Suppose the importation should be a little lessened by it; that would favor the efforts of our own people, while the duties paid would still be so much gained to the revenue. Suppose the importation should hardly be diminished at all, as perhaps it might not be; then we should receive the more revenue, and should collect it on an article of the merest luxury. Sir, if such a measure could originate in this house, I would move this hour to bring in a bill laying a duty on imported silks.

The next article is wine. Wines were imported last year to an amount exceeding three millions of dollars. Why should not wines pay a duty? I know that, in regard to French wines, we are limited, by the treaty with France, until 1842. But still, within those limits, we might lay a considerable duty on the wines of France. But I should have no desire to lay duties on the red wines, or the cheaper wines, of France. Such wines are consumed extensively in the South and West, are suited to the habits of the people, and supposed to be suited also to the climate. Until it becomes more necessary than it is at present to tax them, they might be received untaxed. But other and costly wines, such as are regarded as luxuries only, might well be subjected to a reasonable duty.

I would lay no duty on tea or coffee, because they are very generally used, have become, in some degree, necessaries of life, and contribute largely to promote comfort, temperance, and happiness among all classes. I may add, that the general use of these articles is one of the most striking things which distinguish the laboring classes of this country from the same classes in other countries.

Such, Sir, would be my resort, if I could have my own way, for the revenues which are necessary for the support of government.

As to the public lands, I have been, and still am, in favor of dividing their proceeds among the States upon fair and equitable principles. Perhaps this should not be done till the census, which is to be taken this year, be finished, as that will afford the surest means of making a just and proper division; but, at a proper time, I am for the measure. In addition to other reasons which have been so often urged, it may be said with truth that the income from this source is too unsteady and fluctuating to be relied on as an essential branch of public revenue. But a few years ago, it amounted to twenty-four millions. For this year, it is estimated at but three and a half. I should, therefore, assign this income to the States, whatever it might be, and rely for our revenue on those other sources which I have mentioned. In addition to silks and wines, there are some articles, called the protected articles, such as woollen fabrics, on which, in my opinion, the duties ought to be raised. I would not hasten, indeed, the discussion of the general tariff question; but that question is at no great distance, and must soon be upon us.

Mr. President, our imports, the last year, reached the unprecedented amount of one hundred and fifty-seven millions of dollars, exceeding by nearly fifty millions the import of the year before. Yet even this seems not to satisfy us all. Public men appear to have ruling passions, or strong tendencies of preference toward particular objects. It seems to me that our government, and many of our people, have imbibed an extravagant and morbid love of importation. They seem to judge of the prosperity of the country, and the happiness of its people, exclusively by the quantities of foreign merchandise which they annually consume. With all respect, the President himself, I think, has feelings of this kind. I find this paragraph in his last annual message:—

"Our people will not long be insensible to the extent of the burdens entailed upon them by the false system that has been operating on their sanguine, energetic, and industrious character, nor to the means necessary to extricate themselves from these embarrassments. The weight which presses upon a large portion of the people of the States is an enormous debt, foreign and domestic. The foreign debt of our States, corporations, and men of business can scarcely be less than two hundred millions of dollars requiring more than ten millions of dollars a year to pay the interest. This sum has to be paid out of the exports

of the country, and must, of necessity, cut off imports to that extent, or plunge the country more deeply in debt from year to year. It is easy to see that the increase of this foreign debt must augment the annual demand on the exports to pay the interest, and to the same extent diminish the imports; and in proportion to the enlargement of the foreign debt, and the consequent increase of interest, must be the decrease of the import trade. In lieu of the comforts which it now brings us, we might have our gigantic banking institutions, and splendid, but in many instances profitless, railroads and canals, absorbing to a great extent, in interest upon the capital borrowed to construct them, the surplus fruits of national industry for years to come, and securing to posterity no adequate return for the comforts which the labors of their hands might otherwise have secured."

Now, Sir, I would ask, most respectfully, whether any one can mention any railroad or canal more profitless to the country than this enormous importation of foreign luxuries. Or, I would ask, what those imported comforts are, of which we get so much less than we ought to desire. Does our comfort require a greater importation of silks or wines? Or should we be better off by adding to the six or eight millions of imported woollen fabrics, and thus depressing and distressing our own manufactures? Or is the aggregate of one hundred and fifty-seven millions of dollars of imported merchandise not enough, on the whole, to satisfy our eager appetite for foreign productions? Inasmuch as we lay and collect no duties on silks and wines, we are likely to fall short of sufficient revenue; and inasmuch as we are likely to fall short of revenue, we refuse all appropriations to the Cumberland Road, and to harbors on the lakes. It would seem to follow from this, that we deem silks and wines more a necessity of life than a good road through a new country, or ports and havens, in which ships employed in useful commerce can take shelter for the preservation of life and property.

Mr. President, it is remarkable that this spirit for importation should become so strong just when our own occupations and employments are most depressed. The cotton manufactures, practically, are in a worse state than they have been for twenty years. It is supposed that at least one half of the woollen machinery in the United States has ceased to work, and many of the establishments might be purchased at one third of their cost.

The iron trade and the coal trade suffer with the rest. If the condition of Eastern and Northern manufactures be as I have stated, I doubt whether one would receive much more favorable accounts, if he were to inquire into the condition of trade and business at Pittsburg, at Wheeling, or at Cincinnati. Under these circumstances, Sir, I confess I do not comprehend how any man should desire to see a greater importation of foreign commodities.

The Secretary of the Treasury expresses sentiments, if not entirely like those which I have been considering, yet such as seem to belong to the same general system of policy. He says in his annual report: —

"Should the States not speedily suspend more of their undertakings which are unproductive, but, by new loans or otherwise, find means to employ armies of laborers in consuming rather than raising crops, and should prices thus continue, in many cases, to be unnaturally inflated, as they have been of late years, in the face of a contracting currency, the effect of it on our finances will be still more to lessen exports, and consequently the prosperity and revenue of our foreign trade."

Foreign trade is here presented as the prominent object of national pursuit, and a reduction of prices at home clearly intimated as a measure of reform. Those armies of laborers now employed on public works, it is here distinctly recommended, instead of thus consuming crops, should go to raising them. This, I think, is rather cold comfort, at the present prices of agricultural products. Gentlemen around me know the prices at which wheat and flour are selling in the Northwestern States, and in Pennsylvania and New York. Carolina corn, I notice, is selling in Boston for fifty cents a bushel. I doubt whether any of the producers think these prices unnaturally inflated, or whether they will warmly sympathize with the Secretary in the opinion that there ought to be a further reduction.

Mr. President, my own opinion of our condition, and of our true policy, is quite different from all this. I hope the States will be able to go on, and that they will go on, with their public works, unless in cases where the objects are plainly beyond their ability. I hope they will keep good heart, use the strictest economy, persevere, and not lose the benefit of all they have done already.

I am for bringing about no reduction in the price of labor On the other hand, I regard high rates of labor as the surest proofs of general prosperity.

I have no desire to see a greater or more unrestrained importation of foreign goods. On the contrary, I am for laying a tax on imported luxuries, thus securing an adequate revenue to government.

And with this revenue I am for defraying the ordinary expenses of government, making reasonable provision for unexpected contingencies, and for accomplishing important and useful works, for which we have been so much solicited by our constituents, and which, in my opinion, the several parts of the country have a right to call on us no longer to neglect.

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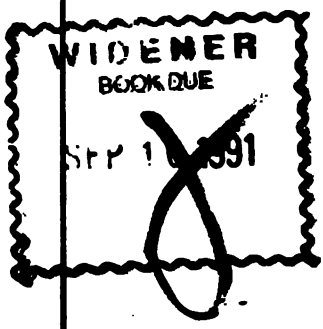
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